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VIA MESSENGER

Ms. Denise L. Roberts
Senior Assistant Regional Counsel
United States Environmental Protection Agency
Region 7, Mail Code CNSLSPFD
901 North 5th Street
Kansas City, Kansas 66101

Re: NCR's liability for Standard Products/Standard Precision Sites

Dear Ms. Roberts:

Thank you for providing us the opportunity to respond to arguments NCR Corporation asserted with respect to the above-referenced sites in Wichita. Although the General Notice letter EPA sent Raytheon addressed only the site at 650 East Gilbert Street (the "Gilbert site"), you asked that we also discuss NCR's contentions related to the property at 4105 West Pawnee (the "Pawnee site").

Based on all the documents Raytheon has obtained in response to open records requests and through searches of public databases, historic newspapers, and other sources, there can be little doubt that NCR is the only possible successor to the liabilities at issue.¹ As discussed more fully below, NCR's arguments with respect to both sites are unfounded and based on incomplete or misleading information.

¹ In providing the analysis below, we understand that the only documents EPA withheld in response to Raytheon's requests under the Freedom of Information Act ("FOIA") are those the agency considers privileged and which it does not intend to rely on as evidence in any claim related to these matters. If that understanding is mistaken, please advise us immediately so that Raytheon may take appropriate action to challenge EPA's denial of its FOIA appeal. In addition, Raytheon asks that the EPA treat its previous FOIA request as a standing request, to be supplemented monthly as new information becomes available, until such time as Raytheon is removed from the EPA's list of PRPs for both sites.

INTRODUCTION AND OVERVIEW

In our recent telephone conversation and your letter of May 19, 2010, you mentioned the *Untied States v. Bestfoods* decision, which NCR claims shields it from liability. Contrary to its contention, however, NCR was not just a parent company that created a new subsidiary when it acquired the business and properties of ECI's former Standard Precision Division. Rather, the documents demonstrate that NCR forced out the minority shareholders of ECI in 1971, took over the Standard Precision Division without consideration to ECI, and made the former ECI division an unincorporated business unit of NCR. NCR acquired not only the assets of the Standard Precision Division, but also the entire "business conducted by such Division."² Accordingly, the *Bestfoods* decision does not provide any defense to NCR.

Furthermore, the traditional rule of nonliability for purchasers who acquire assets in an "arms-length transaction" is entirely inapplicable. NCR's takeover cannot be considered an "arms-length transaction," because NCR did not pay any consideration when it stripped its wholly owned subsidiary of an entire corporate division after forcing out the minority shareholders. Even if this were an "arms-length transaction" (which assuredly it was not), there can be no doubt that NCR impliedly assumed the liabilities of the former ECI division it absorbed or otherwise succeeded to its liabilities under theories of *de facto* merger or "mere continuation." The documents the government and NCR itself produced indicate, among other things, that:

- NCR expressly accepted the properties and assets in the condition in which they existed, without attempting to limit its liability in any way.
- NCR made no changes to management or personnel of the division at the time of the takeover.
- NCR retained responsibility for factory warranties on products that had been manufactured both before and after the takeover.
- NCR itself apparently renewed the existing radioactive materials license for the Pawnee site the year after it absorbed the Standard Precision Division.
- NCR maintained the radioactive materials handling license until it was cancelled, by NCR, in 1973.

² See Ex. A, Written Consent in Lieu of Meeting of Board of Directors, ECI, Dec. 30, 1971, ¶ 2; Ex. B, General Warranty Deed, Jan. 3, 1972 (first recital).

Although NCR has suggested otherwise, the original Standard Products and Standard Precision were legally dissolved, not merged, under Kansas law. Because Raytheon's alleged liability for the Gilbert site is based entirely on pre-dissolution operations of Standard Products, a former second-tier subsidiary of ECI, Raytheon is the only company that has a valid *Bestfoods* defense.

Production Products assumed the Standard Products name at the time of the dissolution (and was later renamed Standard Precision), but there is no indication that it ever engaged in dial-stripping operations at the Gilbert site. Further, Standard Precision (f/k/a Production Products) itself was legally dissolved in 1965, forty-five years ago.

The fact that ECI assumed certain liabilities of Standard Precision in 1965 to facilitate an orderly dissolution of that company does not change the analysis. The assumption of "absolute or contingent" liabilities does not, as a matter of law, encompass liabilities that did not then exist under CERCLA, a statute enacted some fifteen years later. Further, the pre-CERCLA assumption of existing liabilities cannot possibly extend to liabilities of a sister company (the original Standard Products) that was legally dissolved four years earlier.

Finally, successor liability is an equitable doctrine, not an inflexible command.³ Unlike NCR, Raytheon had no involvement with the Gilbert and Pawnee sites and had no actual knowledge of any environmental problems at either facility. NCR, on the other hand, benefited doubly from its heavy-handed takeover of ECI—first by obtaining an entire business division as a dividend, and second by selling off the division's assets and keeping the proceeds. NCR should not be allowed to benefit again by escaping environmental liability for its former Wichita sites and business operations it absorbed.

CORPORATE HISTORIES AND OPERATIONS

A. *Standard Products and Production Products Are Incorporated as Separate Legal Entities in Kansas*

Production Products (later known as Standard Precision), was incorporated in Kansas on July 12, 1948, almost a year before the incorporation of Standard Products on May 14, 1949.⁴ Although the companies shared a mailing address at 650 East Gilbert throughout the 1950s, they were distinct legal entities engaged in different lines of business. According to Polk city directory listings, Production Products provided

³ E.g., *Chicago Truck Drivers, Helpers & Warehouse Workers Union Pension Fund v. Tasemkin, Inc.*, 59 F.3d 48, 49 (7th Cir. 1995).

⁴ Ex. C, Kansas Secretary of State File for Standard Precision, Inc. (f/k/a Production Products, Inc.) Production Products Articles of Incorporation; Ex. D, Kansas Secretary of State File for Standard Products, Inc., Standard Products Articles of Incorporation.

machinery and metal stamping for aviation and industry, while Standard Products was a wholesale distributor of aviation, automotive, and industrial parts.

Beginning in 1953, various Kansas State Board of Health site inspection reports describe Standard Products' stripping and screen-painting of radium dials at the Gilbert site. The reports do not, however, mention Production Products. At some point prior to 1960, Production Products became a wholly-owned subsidiary of Standard Products, although it is not clear, based on records in Raytheon's possession, exactly how or when that occurred.⁵

B. *Standard Products Becomes an Air Associates Subsidiary, and No Longer Holds the Stock of Production Products*

On March 25, 1959, ECI, through its Air Associates Division, acquired the stock of Standard Products.⁶ A few months after the acquisition, the Kansas Board of Health conducted a survey of the Gilbert facility and noted that the "[r]adium dial painting operation had been drastically curtailed since the last survey" four years earlier. The report further stated that "[o]nly three hand paint booths were still in place and it was reported that no screening was being done with radium paint."⁷ We are not aware of any evidence that radiation-related activities at the Gilbert site continued into the 1960s.

In 1960, ECI incorporated Air Associates, Inc. under Delaware law. Standard Products then became a second-tier ECI subsidiary, wholly owned by Air Associates.⁸ ECI's 1960 annual report describes Standard Products' "complete, FAA-approved Instrument and Accessory shops, with . . . equipment required to overhaul, modify and manufacture flight instruments and test equipment." The report confirms that Standard Products operated separately from its subsidiary, Production Products: "Production Products, Inc., wholly owned by Standard Products, Inc., represents still another vital phase of operations through the specialized manufacture of stamped metal parts and screw machine parts for aircraft."⁹

The separation between Standard Products and Production Products grew even wider around 1961, when ECI restructured its corporate hierarchy around 1961, causing Production Products to become wholly owned by Advanced Technology Corporation, a

⁵ See Ex. E, ECI 1960 Annual Report at 27.

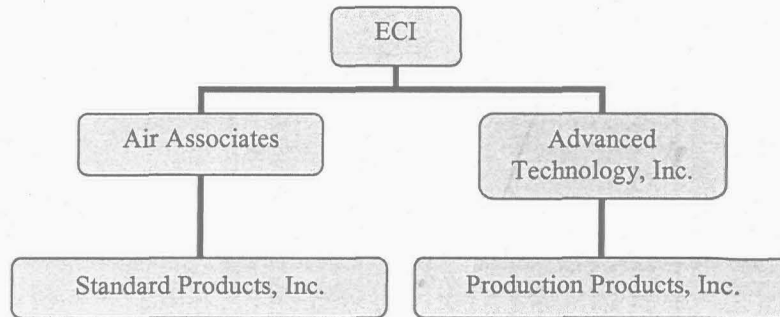
⁶ Ex. F, Moody's *Electronic Communications* 1959 & 1960; Ex. G, ECI 1959 Annual Report at 3-4, 11.

⁷ Ex. H, Kansas State Board of Health Routine Survey for Radium in Dial Painting Shop, Standard Products, Inc., 650 E. Gilbert, Aug. 11, 1959, at 2, Observation ¶ 1.

⁸ See Ex. F, Moody's *Electronic Communications* 1960 & 1961.

⁹ Ex. E, ECI 1960 Annual Report at 27.

first-tier ECI subsidiary based in California.¹⁰ The new organizational structure was as follows:



By 1962, ECI sold Advanced Technology, which had been performing at a loss, to a purchaser that is not identified in materials in Raytheon's possession.¹¹ Production Products remained within the ECI corporate family, presumably becoming a first-tier subsidiary of ECI on an equal level with Air Associates.

C. *Air Associates Dissolves Standard Products; Production Products Assumes Name and Moves to Pawnee Site —1961 and 1962*

Air Associates, based in Teterboro, New Jersey, wanted to be closer to the center of the country so that the company could more easily distribute its products. On September 11, 1961, it liquidated and dissolved Standard Products under Kansas law,¹² a move that allowed Air Associates to obtain the leasehold rights to the Gilbert facility as part of the distribution of Standard Products' assets. Air Associates announced that it was moving its headquarters from New Jersey to Wichita, and it began converting the Gilbert site into a central supply depot and office space.¹³ Air Associates was later sold to Van Dusen Aircraft Supplies, Inc., an unrelated company, in the early 1960s.¹⁴ Available records indicate that Dallas-based Aviall, Inc. is the successor to Van Dusen.¹⁵

¹⁰ See Ex. F, Moody's *Electronic Communications* 1961.

¹¹ See Ex. I, ECI 1962 Annual Report at 5.

¹² Ex. D, Kansas Secretary of State File for Standard Products, Inc. (showing dissolution of Standard Products by Air Associates, its sole shareholder).

¹³ Ex. J, *Series of Moves Made by ECI to Expand Commercial Position*, ECI Communicator, July 1962, at 1, col. 4.

¹⁴ Ex. K, *Van Dusen Aircraft Buys Division of Electronic Communications, Inc.*, Wall St. J., Feb. 6, 1963, at 1. Later that year, a Van Dusen subsidiary filed a business application with the Kansas Secretary of State, listing the Gilbert site as its Kansas office. The application describes the business to be transacted in Kansas as "the wholesale distribution of all kinds of aviation parts, supplies, and accessory items to the aircraft industry." See Ex. L, Application to Conduct Business in Kansas, Apr. 24, 1963; see also Ex. M, Moody's *Van Dusen* 1964 (listing wholly-owned subsidiaries).

¹⁵ See Ex. N, *Ryder System to Acquire Most of Van Dusen Air*, Business Wire, Inc., Oct. 28, 1986.

The same month that Standard Products dissolved, Production Products, which remained an ECI subsidiary, changed its name to Standard Products, thus preventing any other entity from taking the name of its former sister company.¹⁶ It then moved to a newly leased, 40,000-square-foot facility at the Pawnee site, where it began operations in April 1962 under new management.¹⁷ These changes coincided with the transfer of ECI's growing facsimile operations, which would become fully integrated into the new Standard Products by June 1962.¹⁸

D. *Standard Products Changes Name to Standard Precision in 1963 and Is Legally Dissolved in 1965*

In 1963, the new Standard Products (formerly Production Products) changed its name to Standard Precision and purchased the newly remodeled Gilbert site for use as a warehouse. The Air Associates/Van Dusen tenancy ended around the same time.

With its new management and change in location, there were also changes in operations beyond any previously conducted at the Gilbert site. Although the renamed company continued to manufacture metal products and screw parts for airplanes, the production of fax machines apparently became a new staple of its operations.

In June 1963, the Wichita Division of Humphrey, Inc., became part of Standard Precision.¹⁹ That acquisition gave Standard Precision a new foothold into research, engineering, and production of electronic and electromechanical products for aerospace use.²⁰ In addition, ECI's annual report from 1963 states that "Standard Precision . . . moved into the space field with the development of an advanced rate-sensor which will be used by NASA to test components for space probes and satellites. Other items such as accelerometers and gyroscopic devices are finding direct applications with NASA and space industry prime contractors."²¹

¹⁶ See Ex. C, Kansas Secretary of State File for Production Products, Inc.

¹⁷ Sydney K. Murray, who had been brought in from an outside company, was named the president of Standard Products. James E. McCarthy, former general manager of ECI's Facsimile Division, was appointed vice president/marketing. Ex. O, *Sydney K. Murray is Named President of Standard; Facsimile Operation Moves to Wichita*, ECI Communicator, Apr. 1962, at 1.

¹⁸ *Id.* at 4; see also Ex. P, *Electronic Systems Firm Transfers Here*, Wichita Morning Eagle, Apr. 5, 1962; Ex. Q., *Aircraft Instrument Manufacturing Firm Fills Manager Post*, Wichita Morning Eagle, Apr. 30, 1962.

¹⁹ Ex. F, Moody's *Electronic Communications* 1964.

²⁰ Ex. R, ECI 1963 Annual Report at 3.

²¹ *Id.* at 7.

On September 27, 1965, ECI dissolved Standard Precision under Kansas law.²² As the sole shareholder, ECI received a liquidating distribution of the former Standard Precision assets, including title to the Gilbert site and the leasehold rights to the Pawnee facility. To facilitate an orderly dissolution, ECI provided for the discharge of all outstanding debts and liabilities of the company, as required under Kansas law. In particular, ECI's board of directors issued a resolution for ECI to assume payment of "all liabilities and performance of all obligations, if any, of Standard of every description, whether absolute or contingent."²³ As discussed more fully below, ECI did not thereby assume any liabilities under CERCLA, which was enacted some fifteen years later. *-interview*

After the dissolution, ECI created the so-called Standard Precision Division, an unincorporated business unit, to conduct further operations at the Pawnee site.

E. *State Issues Radioactive-Materials License to Standard Precision Division in 1966*

On January 5, 1966, the state of Kansas issued a radioactive-materials license for the Standard Precision Division's use at the Pawnee site. The application for this license stated that although Standard Precision did not use radioactive materials in its products, "[w]e have been advised by your office that it is present in our Clean & Stripping Department."²⁴

The license was renewed with amendments in July 1968. In a letter dated June 17, 1970; the quality control manager for the Standard Precision Division advised the Kansas Department of Health that "[t]here has been no change in our program at this time and we do not anticipate any changes in the near future."²⁵ Accordingly, the license was renewed again and extended through July 31, 1972.²⁶

F. *NCR Orchestrates Takeover of ECI and Absorbs Standard Precision Division—1968 to 1972*

National Cash Register's efforts to gain full control of ECI and absorb its Standard Precision Division began May 20, 1968. On that date, NCR offered to exchange one share of NCR stock for every two shares of ECI, conditioned on NCR's acquisition of at least 80% ownership by the offer's expiration, and the resignation of

²² Ex. C, Kansas Secretary of State File for Standard Precision, Inc. (f/k/a Production Products, Inc.).

²³ See Ex. S, ECI Board of Directors Minutes, Sept. 27, 1965, at 5-6.

²⁴ Ex. T, Application for Radioactive Material License, Standard Precision, 4105 W. Pawnee, by H.W. Scudlo, Vice President, Feb. 24, 1965.

²⁵ Ex. U, Letter from E.L. Bailey to Kansas State Department of Health, June 17, 1970.

²⁶ Ex. V, Amendment No. 4 to Radioactive Materials License, 25-R061-01, issued June 23, 1970.

ECI's directors to be replaced by directors of NCR's choice.²⁷ In late 1968, NCR had acquired more than 85% of the shares, so much that the American Stock Exchange suspended public trading of ECI's stock because of limited trading volume.²⁸ That move left the minority shareholders little practical choice but to accept NCR's tender offer. By 1969, NCR had acquired just over 97% ownership of ECI.²⁹ Owners of the remaining 3%, however, were still holding out.

In 1970, NCR applied to the Kansas Secretary of State for authority to engage in business in Kansas, proposing to "manufacture, sell and generally deal in and with precision equipment."³⁰ As long as ECI continued to have minority shareholders, however, NCR faced restrictions on the ways in which it could exploit its new subsidiary. The minority shareholders, for example, could not be forced to accept a dividend in kind (such as the delivery of an entire business division from subsidiary to parent).

Thus, NCR formed ECI Merger Corp., a shell company incorporated in New Jersey on December 3, 1971, as a wholly owned subsidiary of NCR.³¹ The new slate of directors that NCR elected to the ECI board then voted to merge ECI into ECI Merger Corp., which would squeeze out all shareholders of the original ECI (other than National Cash Register). As explained in an ECI board resolution dated December 28, 1971:

[E]ffective on or about December 29, 1971, the Company will be merged with ECI Merger Corp., and all of the assets and employees of the Company will be transferred to ECI Merger Corp., which will change its name to Electronic Communications, Inc. and continue the business without interruption thereafter *except for the contemplated transfer of the Standard Precision Division of the Company to The National Cash Register Company.*³²

The plan of merger provided that each "share of Electronic Communications, Inc. Common Stock held of record by any holder thereof *other than The National Cash Register Company* shall forthwith be cancelled and in lieu thereof the holder of such Common Stock shall be entitled to receive . . . \$26.00 per share . . ."³³ The merger thus

²⁷ See Ex. W, Prospectus, Aug. 2, 1968, at 3; see also Ex. X, *Merger Planned by ECI, NCR, ECI Communicator*, Apr. 1968, at 1.

²⁸ Ex. Y, *Exchanges to Suspend Trading in Two Stocks*, Wall St. J., Sept. 13, 1968, at 1

²⁹ See Ex. Z, ECI Report to Stockholders, Dec. 19, 1968.

³⁰ Ex. AA, NCR Application to Kansas Secretary of State, July 15, 1970.

³¹ See Ex. BB, Confirmatory Warranty Deed for 650 E. Gilbert, Dec. 29, 1971.

³² See Ex. CC, Written Consent of ECI Board of Directors in Lieu of Special Meeting, Dec. 28, 1971 (emphasis added).

³³ Ex. DD, Plan of Merger of ECI Into ECI Merger Corp., Dec. 6, 1971, at 1-2.

expelled the minority shareholders and left NCR with full ownership of ECI's stock. ECI's corporate newsletter reported at the time that "[r]esponsibility for the Standard Precision Division, Wichita, Kans., will transfer from ECI to NCR's Data Terminals Division effective January 1."³⁴

On December 30, 1971, the day after the merger, the "new" ECI's board of directors declared a "dividend in kind" distributable to ECI's sole shareholder, NCR, "such dividend consisting of substantially all of the assets held and owned by [ECI] for and in connection with the [ECI's] Standard Precision Division located at Wichita, Kansas, and the business conducted by such Division."³⁵

In an undated press release, NCR announced that the "Standard Precision Division of Electronic Communications, Inc. has become part of the Data Terminals Division of the National Cash Register Company." The press release further stated that "Standard Precision, which has 180 employees, has been a producer of electro-mechanical parts . . . , including instruments and gyroscopic devices. As a unit of the NCR Data Terminals Division it will produce parts for the Ohio company's various business machine products and terminals No changes in management or personnel are expected."³⁶ In fact, a member of NCR's own legal department has acknowledged in a sworn affidavit that following the absorption of Standard Precision into NCR, the Standard Precision lab for testing aircraft instruments remained in operation at the Pawnee site, and that "[i]t was difficult to make a distinction between the operations of Standard Precision and [NCR] because the majority of the interviewees worked for both agencies."³⁷

The resolution by ECI's board of directors declaring the "dividend in kind" provided that the Standard Precision Division assets were to be transferred "as such assets exist, and in the condition in which the same exist." The resolution also specifically authorized the officers of ECI to execute "such bills of sale, deeds, leases and patent assignments and other instruments and documents, and to do such other and further acts and things, as they may deem necessary and proper . . . to effectuate the distribution."³⁸ On January 3, 1972, as part of the dividend, ECI filed a General Warranty Deed with the Kansas Recorder of Deeds transferring title to the Gilbert site to

³⁴ Ex. EE, *Standard Precision Shifts to NCR*, ECI Communicator, Dec. 1971, at 6.

³⁵ See Ex. B, General Warranty Deed, filed Jan. 3, 1972 (emphasis added); see also Ex. A, Written Consent in Lieu of Meeting of Board of Directors, ECI, Dec. 30, 1971, ¶ 2.

³⁶ Ex. FF, *Wichita Plant Becomes Operating Unit of NCR*, Press Release, undated.

³⁷ Ex. GG, Affidavit of Kimberly L. Walsh, April 21, 1995, at ¶¶ 18, 20.

³⁸ Ex. A, Written Consent in Lieu of Meeting of Board of Directors, ECI, Dec. 30, 1971, ¶ 2.

NCR. Notably, the deed was signed December 27, 1971, before the merger was approved or the dividend was declared.³⁹

G. *NCR Sells Gyroscope Product Line and Terminates Radioactive Materials License—1972 to 1973*

Eight months after acquiring the Standard Precision Division, NCR sold a line of Standard Precision aircraft gyroscopes to Aerosonic Corporation. Under the terms of the sale, dated September 7, 1972, as amended on October 2, 1972, Aerosonic agreed to pay NCR \$125,000 plus royalties for a period of two years for the right to manufacture and sell the gyroscopes.⁴⁰ Aerosonic also assumed responsibility for providing service to customers who had outstanding warranties on gyroscopes. The assumption expressly applied to warranties issued either before or after NCR took the Standard Precision Division from ECI, which strongly suggests that NCR continued to honor pre-existing warranties for ECI's Standard Precision products after the takeover.⁴¹

As indicated in a 2007 KDHE report, "In July 1972 the [radioactive-materials] license was renewed with amendments In February of 1973, NCR requested the termination of radioactive materials license number 25-R061-01 held by [Standard Precision]. License number 25-R061-01 was terminated on February 21, 1973 by KDHE/BAR."⁴²

The Wichita City Directory listing for the Gilbert site in 1973 continues to describe the facility as a Standard Precision Division warehouse. The 1973 listing for the Pawnee site refers to the NCR Accounting Computer Division. NCR reportedly moved its manufacturing operations from the Pawnee site to a new facility in Wichita by the end of 1973, but continued to lease the Pawnee facility until 1977.⁴³ NCR sold the Gilbert site in February 1975, and apparently retained the proceeds of that sale for itself.⁴⁴

³⁹ Ex. B, General Warranty Deed, filed Jan. 3, 1972.

⁴⁰ Ex. HH, Agreement of Sale between NCR and Aerosonic Corp., Sept. 7, 1972.

⁴¹ *Id.* ¶ 8. The contract with Aerosonic indicates that the company intended to manufacture the gyroscopes in Dallas, Texas. Notably, Aerosonic established a repair facility, including dial stripping operations, in Wichita three years later. See KDHE Identified Sites List Information, Aerosonic Corporation (Former), 2605 S. Custer Ave., Wichita, available at http://kansas.kdhe.state.ks.us/certop/ISL_Detail?id=C208772321.

⁴² See Ex. II, Unified Focus Assessment Report by KDHE for Pawnee Site, Mar. 2007, at 2.

⁴³ Ex. JJ, Affidavit of Kirk Hamersky, Oct. 23, 1996, ¶¶ 4, 10; Ex. KK, Letter from Ceco, Inc. to KDHE, Feb. 8, 1995.

⁴⁴ Ex. LL, Corporation Deed (General Warranty), Feb. 21, 1975.

H. *E-Systems Buys ECI and Merges With Raytheon; Wichita Business and Operations Remain With NCR—1976 to 2001*

In August 1976, E-Systems purchased all the stock of ECI, which was then based in St. Petersburg, Florida, for \$19 million.⁴⁵ E-Systems had no reason to inquire about operations in Wichita or the former Standard Precision Division, which NCR had taken over some five years earlier. Moreover, there is no indication that ECI had any manufacturing operations or facilities in Wichita when E-Systems purchased the stock of ECI and merged with the company thirty-four years ago. Raytheon was even further removed from the Standard Products/Standard Precision legacy when it acquired the stock of E-Systems in 1995, and later merged with that company in 2001.

LEGAL ANALYSIS

I. *BESTFOODS DOES NOT SHIELD NCR FROM LIABILITY BASED ON THE MANNER IN WHICH THE STANDARD PRECISION DIVISION WAS ORGANIZED AT THE TIME OF NCR'S TAKEOVER*

In *United States v. Bestfoods*, 524 U.S. 51 (1998), the U.S. Supreme Court recognized that “[i]t is a general principle of corporate law deeply ‘ingrained in our economic and legal systems’ that a parent corporation (so-called because of control through ownership of another corporation’s stock) is not liable for the acts of its subsidiaries” and that “nothing in CERCLA purports to reject this bedrock principle.” 524 U.S. at 61-62 (citations omitted). The Supreme Court concluded that a parent corporation may not be charged with derivative CERCLA liability based on the former activities of a dissolved subsidiary absent a showing that the corporate form was being used for a wrongful purpose such as fraud. *Id.* at 61-63.

There was no parent/subsidiary relationship between NCR and the former Standard Precision Division that NCR took as a “dividend in kind” from ECI. Contrary to NCR’s suggestion, the *Bestfoods* decision is thus inapplicable. NCR’s primary contention appears to be that it cannot be subject to successor liability because the Standard Precision Division was not an incorporated entity with a legal existence separate from ECI at the time of NCR’s takeover. In correspondence with KDHE, NCR emphasized that there was no “NCR/ECI merger” and that “ECI was not dissolved.”⁴⁶ NCR has not, however, offered any authority or explanation in support of its position. Moreover, NCR has overlooked substantial case law to the contrary.

⁴⁵ See Ex. MM, ECI Board of Directors Minutes, June 16, 1976; Ex. NN, Agreement, Aug. 5, 1976.

⁴⁶ See Letter from NCR’s counsel, David Traster, to KDHE, April 29, 2008, at 6-7.

For example, in *Synergy Methods, Inc. v. Kelly Energy Systems*, 695 F. Supp. 1362 (D.R.I. 1988), the court determined that a company formed to acquire the unincorporated roofing division of another corporation became the legal successor to that division. Finding that it did not matter that the selling corporation continued to exist and engaged in other business activities after the transfer of its division, the court stated:

The contemporary corporation may have many different divisions, each one participating in a wholly separate and distinct market or industry from all of the others. Accordingly, we believe that *the policies and purposes of the de facto merger doctrine require that this doctrine be applied not only to the sale of assets constituting an entire corporation with its subsequent dissolution, but to the sale of assets constituting a corporate division as well.*

695 F. Supp. at 1365 (emphasis added); *see also Tex Tin Corp. v. United States*, 2006 WL 1118587 (S.D. Tex. April 25, 2006) (CERCLA case applying successor-liability tests to a transaction involving the sale of a company's "chemicals division").

Likewise, in *Blackstone Valley Electric Co. v. Stone & Webster, Inc.*, 867 F. Supp. 73 (D. Mass. 1994), the court applied a successor-liability test in analyzing the transfer of a manufactured-gas division from a parent company to its subsidiary. Because the subsidiary had "retained the same employees, produced the same product, retained part of the same name and continued the operation that once belonged to [the parent company's] manufactured gas division," the court denied the alleged successor's motion for summary judgment.

In *Purolator Products Corp. v. Allied-Signal, Inc.*, 772 F. Supp. 124 (W.D.N.Y. 1991), a parent company and its wholly owned subsidiary contracted for the parent to convey to the subsidiary all of the parent's interest in its "Motor Components Division," excluding specified assets. Prior to 1975, the selling company had ceased manufacturing carburetors, but the court held that the transaction encompassed liability for those activities as well:

By assuming all liability for the Division . . . [purchaser] assumed liability not only for the Division's existing operations, but for its past manufacturing activities as well. Since liability for the carburetor business was not excluded, [purchaser] assumed all liability connected with the Motor Components Division's manufacture of carburetors, regardless of whether the Division was still making carburetors in 1975.

772 F. Supp. at 133; *cf. Cytec Industries v. B.F. Goodrich Co.*, 196 F. Supp. 2d 644 (S.D. Ohio 2002) (analyzing the sale of an entire business line to another company by applying

a successor-liability test, but ultimately holding that there was not enough evidence to establish successorship).

In summary, there is ample case law, decided both before and after *Bestfoods*, holding that a corporation can succeed to the liabilities of an unincorporated business unit of another company. Contrary to NCR's suggestion, *Bestfoods* does not in any way address the liability implications of decentralized management through corporate divisions. Nor does *Bestfoods* impair EPA's ability to impose successor liability on a parent company, such as NCR, that forces out minority shareholders of a subsidiary, so that it can take a valuable business unit of the subsidiary for itself.

II. THE ASSET-PURCHASER RULE DOES NOT APPLY TO NCR'S ABSORPTION OF THE STANDARD PRECISION DIVISION

Most courts that have addressed the issue since the landmark decision in *Bestfoods* have concluded that state law governs corporate successorship under CERCLA.⁴⁷ It is a well-settled rule in virtually every state, including Kansas (state of incorporation for Standard Products and Production Products) and Maryland (state of incorporation for NCR when it took on the Standard Precision Division), that when one company acquires the assets of another, the purchaser does not succeed to the liabilities associated with those assets unless (1) the purchaser expressly or impliedly agrees to assume the seller's liabilities; (2) the transaction amounts to a *de facto* consolidation or merger; (3) the purchasing corporation is a "mere continuation" of the seller; or (4) the transaction was entered into fraudulently to escape liability.⁴⁸ *E.g., Comstock v. Great Lakes Distrib. Co.*, 496 P.2d 1308, 1311 (Kan. 1972); *Nissen Corp. v. Miller*, 594 A.2d 564, 565-66 (Md. 1991).

The asset-purchaser rule generally applies only in the context of a "*bona fide*, arms-length transaction."⁴⁹ The general rule of successor nonliability "cannot be applied

⁴⁷ See, e.g., *United States v. Davis*, 261 F.3d 1, 53-54 (1st Cir. 2001) (*Bestfoods* "left little room for the creation of a federal rule of liability under the [CERCLA] statute"); *City Mgmt. Corp. v. U.S. Chem. Co.*, 43 F.3d 244, 250 (6th Cir. 1994) (holding that state law provides the rule of decision for corporate successor liability under CERCLA); *Anspec Co. v. Johnson Controls, Inc.*, 922 F.2d 1240, 1248 (6th Cir. 1991) (same); *Redwing Carriers, Inc. v. Saraland Apartments*, 94 F.3d 1489, 1500-02 (11th Cir. 1996) (rejecting federal common law for determination of partner's liability under CERCLA).

⁴⁸ Under federal common law, some courts developed what has been referred to as a fifth exception—the "substantial continuity" or "continuity of enterprise" approach. Courts have generally rejected this approach, however, after *Bestfoods*. See, e.g., *Davis*, 261 F.3d at 53-54; *United States v. General Battery Corp.*, 423 F.3d 294, 309 (3d Cir. 2005) (adhering to federal common law but rejecting "substantial continuity theory"), *cert. denied sub nom. Exide Tech. v. United States*, 549 U.S. 941 (2006).

⁴⁹ *Avery v. Safeway Cab, Transfer & Storage Co.*, 80 P.2d 1099, 1102 (Kan. 1938) (successor nonliability rules applies only "where the contracting corporations and their representatives are dealing with each other at arm's length, and where each side is looking out for the interest of its own corporation"); *McKee v. Harris-Seybold Co.*, 264 A.2d 98, 107 (N.J. Super. 1970) (nonliability rule applies "when the sale

when the negotiators for both corporations are the same or virtually the same, and the transfer of assets is made merely for their own convenience and advantage.”⁵⁰ “If . . . the ‘sale’ is simply a corporate reorganization that leaves real ownership unchanged, the liabilities go with the assets.”⁵¹ As the court stated in *North Shore Gas Co. v. Salomon, Inc.*, 152 F.3d 642 (7th Cir. 1998), “when an asset purchase is more properly described as a reorganization, the ‘purchaser’ will find it difficult to escape liability, because one or more of the successor liability exceptions will suggest that the seller has survived the sale.” 152 F.3d at 651.

The asset-purchaser rule should not protect NCR, because the “dividend in kind” was not a simple arm’s-length acquisition of assets for fair value. Rather, NCR raided an entire division of its subsidiary, without any payment whatsoever, after forcing out the minority shareholders. As outlined below, however, even under the traditional rule of nonliability and its exceptions, NCR cannot avoid liability as the sole legal successor to the Standard Precision Division.

1. Implied Assumption of Liability

The question whether an asset purchaser has impliedly assumed liabilities is “necessarily fact-bound.”⁵² Factors courts have considered include whether the successor acquired a liability policy as part of the transaction or retained liability insurance after the sale that covered the predecessor’s products or operations;⁵³ the impact of the transaction on the selling corporation’s creditors;⁵⁴ whether the would-be successor used a similar name, publicly took credit for the predecessor’s work, or stated that it was combining “certain aspects of its business” with the predecessor;⁵⁵ whether the successor took steps

is a bona fide transaction, and the selling corporation receives money to pay its debts, or property that may be subjected to the payment of its debts and liabilities, *equal to the fair value of the property conveyed by it*”; emphasis added, citation omitted), *abrogated on other grounds by Ramirez v. Amsted Indus.*, 431 A.2d 811 (N.J. 1981); accord *Director of Bureau of Labor Standards v. Diamond Brands, Inc.*, 588 A.2d 734, 736 (Me. 1991).

⁵⁰ *Avery*, 80 P.2d at 1102.

⁵¹ *Chaveriat v. Williams Pipe Line Co.*, 11 F.3d 1420, 1424 (7th Cir. 1993); see also *Blau v. Mission Corp.*, 212 F.2d 77, 80 (2d Cir. 1954) (exchange of shares between parent corporation and wholly controlled subsidiary is not a statutory purchase or sale, but is “a mere transfer between corporate pockets”).

⁵² *City of Richmond v. Madison Mgmt. Group, Inc.*, 918 F.2d 438, 451 n.11 (4th Cir. 1990) (citing 15 W. Fletcher, CYCLOPEDIA OF CORPORATIONS § 7124).

⁵³ *Florum v. Elliott Mfg.*, 867 F.2d 570, 576 (10th Cir. 1989).

⁵⁴ *Ladjevartian v. Laidlaw-Coggeshall, Inc.*, 431 F. Supp. 834, 839 (S.D.N.Y. 1977) (implied assumption more likely when creditors left without a remedy, as opposed to where predecessor corporation continues as viable corporate entity).

⁵⁵ *Id.*; *City of Richmond*, 918 F.2d at 450-51.

to finish or repair the predecessor's work;⁵⁶ and whether the successor received customer accounts of the predecessor.⁵⁷

The totality of NCR's conduct clearly shows that it assumed liability for the Standard Precision Division. NCR acquired not only the assets of the Standard Precision Division, but also the "business conducted by such Division." The language of NCR's "dividend in kind," which directed ECI's directors to deliver "bills of sale, deeds, lease and patent assignments and other instruments and documents," is broad enough to encompass rights to coverage under liability insurance policies.⁵⁸ Standard Precision's radioactive materials license continued under NCR for more than a year following the purported asset dividend; during that time the state dealt with NCR, not ECI, regarding the license and its cancellation.⁵⁹

The fact that NCR kept some of Standard Precision's products (gyroscopes) and later sold them for more than \$125,000 suggests that it retained other assets of Standard Precision, including accounts receivable, which were not specifically excluded from the asset dividend. Additionally, NCR required the purchaser of the gyroscopes, Aerosonic, to assume service obligations under any outstanding factory warranties on gyroscopes manufactured and sold either before or after the transfer to NCR, suggesting that NCR assumed various contractual obligations of the Standard Precision Division.

NCR also held out to the public that it was combining aspects of the two companies' businesses. Announcements at the time stated that "responsibility" for the Standard Precision Division had been transferred to NCR and that there would be no disruptions in the unit's management or personnel. Knowing the use and nature of Standard Precision's past operations, NCR took all assets, including title to the Gilbert

⁵⁶ *Id.* at 451.

⁵⁷ *City of Richmond*, 918 F.2d at 451.

⁵⁸ See, e.g., *Winchel v. Nat'l Fire Ins. Co.*, 282 P. 571, 572 (Kan. 1929) (sale included insurance rights even though deed did not mention insurance); *Pilkington N.A., Inc. v. Travelers Cas. & Sur. Co.*, 2009 WL 2243590 (N.D. Ohio July 27, 2009) (transfer of "all . . . right, title and interest in and to all of the rights and property . . ." was sufficient to transfer right to assert claim for insurance for post-sale environmental liability arising out of pre-sale operations; "By describing the transferred assets in all-encompassing terms, the parties eliminated the need to list each specific asset . . ."); *Massachusetts Elec. Co. v. Commercial Union Ins.*, 2005 WL 3489658, *1 (D. Mass. Oct. 18, 2005) (purchase of "all of such Seller's assets . . . including without limitation all of Seller's . . . contracts" transferred insurance rights even though insurance policies were not specifically mentioned); *B.S.B. Diversified Co., Inc. v. Am. Motorists Ins. Co.*, 947 F. Supp. 1476 (W.D. Wash. 1996) (finding intent to transfer rights to coverage under insurance policies was present where transfer agreement conveyed "all assets used or held for use").

⁵⁹ Cf. *City of Richmond*, 918 F.2d 438, 451 (4th Cir. 1990) (noting that purchasing company's decision not to direct inquiries about allegedly faulty materials to seller of assets supported inference that purchaser impliedly assumed liability); *Academy of IRM v. LVI Envtl. Servs., Inc.*, 687 A.2d 669, 678 (Md. 1997).

site, "in the condition in which the same exist, on said distribution date" without attempting to limit its liability in any way. All of this implies assumption of liability.

2. *De Facto Merger*

A *de facto* merger may be found when the parties have achieved "virtually all the results of a merger" but without the formalities required by statute.⁶⁰ Courts typically consider whether (a) there is a continuation of the seller's enterprise through continuity of management, personnel, physical location, assets and general business operations; (b) there is a continuity of shareholders, which often results from the purchasing corporation paying for the acquired assets with shares of its own stock; (c) the seller corporation ceases its ordinary business operations, liquidates and dissolves as soon as practically possible; and (d) the purchasing corporation assumes obligations of the seller necessary for uninterrupted continuation of the normal business operations of the seller.⁶¹

The following hallmarks of a *de facto* merger exist in the transfer of the Standard Precision Division to NCR:

- (a) *Continuity of operations:* NCR announced at the time of the "dividend in kind" that the management and personnel would be unaffected. The division continued to occupy the same facilities before and after the transfer to NCR, and there was continuity with regard to at least one of the Standard Precision Division's traditional operations, the manufacture of gyroscopes—a product line NCR later sold to Aerosonic for its own benefit. Although NCR renamed the Standard Precision Division and may have changed its focus, the division apparently was manufacturing business machines for NCR even before the takeover.
- (b) *Continuity of shareholders:* Ownership of the Standard Precision Division before and after the asset transfer was, for all practical purposes, the same, even though NCR technically did not pay for the assets with shares of its own stock. Because NCR was the sole stockholder of ECI as of 1971, it had an equitable claim to ECI's assets, including the Standard Precision Division;⁶² after the asset dividend, it held legal title to those assets. Thus

⁶⁰ *Kleen Laundry & Dry Cleaning Servs., Inc. v. Total Waste Mgmt., Inc.*, 867 F. Supp. 1136, 1140 (D.N.H. 1994) (citation omitted).

⁶¹ See 15 W. Fletcher, CYCLOPEDIA OF CORPORATIONS § 7124.2 (2008); see also *HRW Sys., Inc. v. Washington Gas & Light Co.*, 823 F. Supp. 318, 334 (D. Md. 1993).

⁶² "The distribution of a dividend in kind . . . is a delivery or assignment of property to its equitable owners." *C. I. R. v. First State Bank*, 168 F.2d 1004, 1007 (5th Cir. 1948).

the ownership of the division and all it encompassed essentially remained unchanged.⁶³

- (c) *Cessation of business by the seller:* ECI clearly did not cease all of its operations and dissolve following NCR's 1971 takeover, but the Standard Precision Division disappeared completely as a unit of ECI by virtue of its forced move to NCR.⁶⁴ ECI eventually ceased all operations in Wichita.
- (d) *Assumption of obligations:* (See above discussion of implied assumption of liabilities).

3. Mere Continuation

In applying the "mere continuation" exception, courts consider: (a) whether there are common officers, directors, and shareholders before and after the transaction; (b) whether only one corporation exists after completion of the sale of assets; (c) whether there is "continuity of investors and control" between buyer and seller; and (d) adequacy of consideration in the transfer of assets.⁶⁵ The "mere continuation" doctrine focuses on continuation of a corporate entity, as opposed to the continuation of its business.⁶⁶

⁶³ Interpreting this factor literally would be nonsensical in a transfer of assets between a wholly owned subsidiary and its parent; the parent corporation is the sole stockholder of a wholly owned subsidiary but is obviously not the holder of its own stock.

⁶⁴ See, e.g., *Synergy Methods, Inc. v. Kelly Energy Sys.*, 695 F. Supp. 1362, 1365 (D.R.I. 1988) ("[T]he policies and purposes of the *de facto* merger doctrine require that this doctrine be applied not only to the sale of assets constituting an entire corporation with its subsequent dissolution, but to the sale of assets constituting a corporate division as well.").

⁶⁵ *Nissen Corp. v. Miller*, 594 A.2d 564, 565-67 (Md. 1991) (stating that commonality of officers/directors/shareholders and cessation of one corporation's existence are the two hallmarks of "mere continuation" but that neither element is essential); *Baltimore Luggage Co. v. Holtzman*, 562 A.2d 1286 (Md. App. 1989) (setting out "indicia" of continuity, discussing continuity of business practices and inadequacy of consideration as relevant to "mere continuation" inquiry); *Gillespie v. Seymour*, 876 P.2d 193, 200 (Kan. App. 1994) (listing factors as "(1) transfer of corporate assets (2) for less than adequate consideration (3) to another corporation which continued the business operation of the transferor (4) when both corporations had at least one common officer or director who was in fact instrumental in the transfer . . . and (5) the transfer rendered the transferor incapable of paying its creditors' claims because it was dissolved in either fact or law").

⁶⁶ 15 W. Fletcher, CYCLOPEDIA OF CORPORATIONS § 7124.10 (2008). By contrast, the broader "substantial continuity" or "continuity of enterprise" test, which has been largely discredited after *Bestfoods*, analyzes whether there is similarity of business activities between the seller and buyer, based on eight factors including retention of employees and supervisors, retention of the same product, continuity of assets, continuity of general business operations, and whether the purchaser holds itself out as a continuation. See *Kleen Laundry*, 867 F. Supp. at 1141-42.

The following factors show that NCR's Data Terminals Division was a "mere continuation" of the ECI Standard Precision Division:

- (a) *Commonality of officers/directors/shareholders*: Management of the Standard Precision division remained unchanged; there also was overlap between the officers and directors of both ECI and NCR, as well as continuity of shareholder ownership of these assets (see discussion above regarding *de facto* merger exception).
- (b) *Cessation of seller's existence*: See discussion above under *de facto* merger.
- (c) *Continuity of investors and control*: NCR's board of directors exercised *de facto* control over both ECI and the Standard Precision Division prior to the asset dividend and continued to exercise full control over the assets and operations following the dividend. If this were not the case (and had NCR not forced out ECI's minority shareholders), the transaction could not have occurred because a minority shareholder may not be forced to accept an asset dividend.⁶⁷
- (d) *Adequacy of consideration*: As noted, there apparently was no consideration paid to ECI for the transfer of the Standard Precision Division; this was not an arm's-length transaction.

In summary, NCR's actions surrounding the 1971 "asset dividend" of the Standard Precision Division fit easily within at least three of the four exceptions to the normal rule of non-liability for a company that acquires the assets of another. It is not necessary, in any event, to ever get to those exceptions, because the non-liability rule itself does not apply in the context of an asset dividend from a wholly owned subsidiary to a parent corporation, conducted inequitably and not at arm's length.

III. STANDARD PRODUCTS AND STANDARD PRECISION WERE LEGALLY DISSOLVED NEARLY FIFTY YEARS AGO

The Supreme Court in *Bestfoods* recognized that CERCLA, despite its ambitious scope, has not supplanted basic principles of corporate law. The Court stated that "the failure of the statute to speak to a matter as fundamental as the liability implications of corporate ownership demands application of the rule that '[i]n order to abrogate a common-law principle, the statute must speak directly to the issue addressed by the common law.'" *Bestfoods*, 524 U.S. at 63 (quoting *United States v. Texas*, 507 U.S. 529, 534 (1993)). The formation and dissolution of corporations and any continuing liability

⁶⁷ *Strout v. Cross, Austin & Ireland Lumber Co.*, 28 N.E.2d 890, 893 (N.Y. 1940) (citing *Williams v. Western Union Telegraph Co.*, 93 N.Y. 162, 192).

implications are, like corporate ownership issues, traditional areas of state common law as to which CERCLA is silent. See, e.g., *Citizens Elec. Corp. v. Bituminous Fire & Marine Ins. Co.*, 68 F.3d 1016, 1019 (7th Cir. 1995) ("Nothing in CERCLA provides for suit after dissolution").

Because Standard Products and Standard Precision (formerly Production Products) were incorporated in Kansas, the dissolution laws of that state are applicable here.⁶⁸ In Kansas, as in all states, "[t]he dissolution of a corporation operates as to it the same as the death of an individual. All its powers, prerogatives, and its authority—its life—cease[.]" *Macrae & Naftzger v. Kansas City Piano Co.*, 77 P. 94, 94 (Kan. 1904). Absent a court-ordered extension, a dissolved Kansas corporation "may not sue or be sued" after a three-year winding-up period has ended.⁶⁹ As to both Standard Products and Standard Precision, that three-year period expired in the 1960s.⁷⁰ Any environmental liabilities under the federal Superfund statute, which did not then exist, were extinguished, along with Standard Products and Standard Precision, upon the dissolution of those companies many decades ago.

The leading appellate case on point is *Levin Metals v. Parr-Richmond Terminal Co.*, 817 F.2d 1448 (9th Cir. 1987), in which the plaintiff brought an action under CERCLA against the shareholders of a corporation that had dissolved, in accordance with California law, in 1971. Finding that the plaintiff's CERCLA claims against the shareholders were barred under California's dissolution statute, the Ninth Circuit held that "considering the section's general purpose of authorizing dissolved corporations to wind up their affairs, it nowhere purports to prolong the life of a dissolved corporation so that, on these facts, Levin may maintain this action even though CERCLA was enacted some nine years after Parr Industrial's demise." 817 F.2d at 1440. Every federal appellate court that has addressed the issue has ruled consistently with *Levin Metals* that state corporate dissolution laws govern capacity to sue under CERCLA.⁷¹

⁶⁸ See Fed. R. Civ. P. 17(b) (the capacity of a corporation to sue or be sued in federal court is determined by the state law under which it was organized)

⁶⁹ See Kan. Gen. Stat. § 17-3606 (1949); *Patterson v. Missouri Valley Steel, Inc.*, 625 P.2d 483, 491 (Kan. 1981).

⁷⁰ See, e.g., *Louisiana-Pac. Corp. v. Asarco, Inc.*, 5 F.3d 431, 433-34 (9th Cir. 1993) (holding that two-year survival period in corporate dissolution statute of Washington barred CERCLA suit brought more than two years after dissolution); *Onan Corp. v. Industrial Steel Corp.*, 32 Env'tl. Rep. Cas. 1902, 1903 (8th Cir.), cert. denied, 498 U.S. 968 (1990) (holding that dissolved corporation could not be sued under CERCLA after expiration of three-year survival period in state's corporate dissolution law).

⁷¹ See *Witco Corp. v. Beekhuis*, 38 F.3d 682, 690 (3d Cir. 1994); *Citizens Elec. Corp. v. Bituminous Fire & Marine Ins. Co.*, 68 F.3d 1016, 1019 (7th Cir. 1995); *Minnesota v. Kalman W. Abrams Metals, Inc.*, 155 F.3d 1019, 1027 (8th Cir. 1998); *Onan*, 32 Env'tl. Rep. Cas. at 1092-03; *United States v. Northeastern Pharmaceutical & Chem. Co.*, 810 F.2d 726, 746-47 (8th Cir. 1986), cert. denied, 484 U.S. 848 (1987); *Louisiana-Pac.*, 5 F.3d at 431; see also *Global Landfill Agreement Group v. 280 Dev. Corp.*, 992 F. Supp. 692, 694 (D.N.J. 1998) ("State capacity statutes are not preempted under CERCLA"); *City of*

A. *Raytheon's Alleged CERCLA Liability at the Gilbert Site Is Based Entirely on Pre-Dissolution Operations of Standard Products, a Second-Tier Subsidiary of ECI That Was Dissolved Almost Half a Century Ago*

At the time Standard Products was dissolved in 1961, its stock was held by Air Associates, not ECI. Standard Products was merely a second-tier subsidiary of ECI, and a direct, wholly owned subsidiary of Air Associates. If any company expressly assumed the liabilities of the original Standard Products on dissolution of that company, it would have been Air Associates. But Air Associates itself was later dissolved after its assets were sold to an unrelated company in 1963.

From the information currently available, it appears that neither ECI nor Standard Precision (then known as Production Products) received Standard Products' assets when Air Associates dissolved the company. Rather, Air Associates apparently received a liquidating distribution of assets, including the leasehold rights to operate at the Gilbert facility. Within months after the dissolution, Air Associates took over the Gilbert facility, had the radium dial shop completely remodeled as office space, and made the facility its corporate headquarters and central storage depot. Production Products (which was then known as Standard Products) moved to the Pawnee facility around the same time that Air Associates took over the property.

Moreover, it has not been suggested that any grounds exist to pierce the corporate veil between the original Standard Products and Production Products. *Bestfoods* clearly establishes that sharing directors and officers is not enough to warrant corporate veil-piercing. See 524 U.S. at 62-64. If that were not the case, the concept of limited corporate liability would cease to exist. The two companies were separately incorporated and had complementary but differing business operations during the time they shared occupancy of the 50,000-square-foot Gilbert site. Production Products, the former subsidiary of Standard Products, was in no way the alter ego or otherwise liable as the successor for the activities of its former parent or sister company.

When the new Standard Products moved to West Pawnee in April 1962, it operated under entirely new management and, at least initially, had a new business focus, namely, to help develop and manufacture the fax machine. As late as 1965, management for the new Standard Products was unaware that any of the work being done at the Pawnee site involved radium paint. These facts very strongly suggest that, when the old Standard Products died, the new Standard Products took on its name but did not succeed to its liabilities.

Philadelphia v. Stepan Chem. Co., 713 F. Supp. 1491, 1494 (E.D. Pa. 1989) (holding that city could not pursue CERCLA claim against distributees of assets of corporation dissolved in accordance with state law).

CERCLA does not trump the dissolution laws of the state of Kansas and its statutory three-year survival period. Normal application of those laws should apply to extinguish any claimed liability for the activities of Standard Products at the Gilbert site, especially claims asserted forty-nine years after the company's dissolution.

B. *ECI's Assumption of "Absolute or Contingent" Liabilities of Standard Precision in 1965 Did Not Contemplate Liability Under CERCLA, Which Did Not Then Exist*

NCR's counsel has asserted that ECI succeeded to the liabilities of what was then Standard Precision by virtue of a 1965 "merger" between the two companies. As laid out in detail in the minutes of ECI's board of directors, however, ECI completely liquidated Standard Precision in 1965, cancelled all of its stock, and dissolved it under Kansas law.

The 1965 event was not a contractual sale of assets, in which parties traditionally bargain for assumption of liability, but a statutory dissolution of a corporation by its sole shareholder—an event that carries independent legal significance under Kansas law. A distribution of assets to shareholders is the inevitable result of any corporate dissolution after the company has discharged or made provision for discharging existing liabilities. See 16A W. Fletcher, CYCLOPEDIA OF CORPORATIONS § 8130 (2003).

As reflected in a resolution dated September 27, 1965, ECI made appropriate provisions for discharging the debts and liabilities of Standard Precision existing as of the date of dissolution by committing to "assume payment of all liabilities and performance of all obligations, if any, of Standard of every description, whether absolute or contingent."⁷² The plan of dissolution indicates that the purpose of this assumption was to effect the orderly liquidation of Standard Precision's assets by distribution to ECI, the sole shareholder, "in accordance with the General Corporation Code of the State of Kansas."⁷³

In cases such as this, where the relevant "assumption of liability" language pre-dates CERCLA by decades, the standard for establishing intent to assume CERCLA liability is difficult to meet, and the preference is for not finding liability. "There must be a clear intent shown to establish that the parties intended to incorporate subsequent enactments." *John S. Boyd Co., Inc. v. Boston Gas Co.*, 992 F.2d 401, 406-40 (1st Cir. 1993). By contrast, a general release will be given effect "as long as the language is sufficiently broad." *Id.*

The language ECI used when it assumed Standard Precision's liabilities is not broad enough to encompass CERCLA liability because it is expressly limited to liabilities

⁷² See Ex. S, ECI Board of Directors Minutes, Sept. 27, 1965, at 5-6.

⁷³ *Id.* at 5.

that are “absolute or contingent.” The court in *Browning-Ferris Industries v. Ter Maat*, 1996 WL 67216 (N.D. Ill. 1996), found that a similar corporate dissolution plan providing that the “shareholders shall assume and agree to discharge the known or contingent liabilities of the Corporation” did not apply to unknown CERCLA liabilities that did not exist at the time of the dissolution. The court noted that “the term ‘contingent liability’ . . . ‘means a liability that already exists but which will become absolute upon the happening of a certain event.’” 1996 WL 67216 at *1.

Likewise, the court in *United States v. Vermont American Corp.*, 871 F. Supp. 318 (W.D. Mich. 1994), found that a March 1980 agreement in which the buyer assumed all “debts, obligations, and liabilities of the Seller, *whether or not matured and whether or not contingent, existing on the Closing Date . . .*” did not create successor liability under CERCLA. 871 F. Supp. at 321 (emphasis by court). In reaching this conclusion, the court stated:

The government contends there is a question of fact as to whether CERCLA liability was a contingent or not yet matured liability which existed on the closing date The Court disagrees. CERCLA was not enacted until 8 months after the sale, the Mason County Landfill was not placed on the National Priority List until 1982, and Vermont American was not notified of its potential liability until 1988. Under these circumstances the Court finds as a matter of law that there is no question that CERCLA liability was not a liability that existed on the closing date. . . . There is no question of fact that the CERCLA liability was not assumed under the Assumption Agreement.

Id.

In *Chrysler Corp. v. Ford Motor Co.*, 972 F. Supp. 1097 (E.D. Mich. 1997), the court found that an assumption of contingent liabilities did not include liabilities arising under CERCLA, which was enacted twenty-four years later, since “[a] liability is nonexistent until it is created by law.” 972 F. Supp. at 1108-09. “Were it otherwise,” the court stated, “there would be no distinction between a contingent liability and a future-arising liability, making the contractual assumption of both redundant.” *Id.*; see also *Lewis v. Barnett*, 33 P.2d 331, 334 (Kan. 1934) (distinguishing between contingent liability and “mere contingency”) (superseded on other grounds by statute).

The present case is even more compelling than *John S. Boyd*, *Browning-Ferris*, *Vermont American*, and *Chrysler*. Indeed, CERCLA was not enacted for fifteen years after Standard Precision was dissolved in 1965, and Raytheon did not receive a General Notice of potential liability under 2010, forty-five years after the dissolution. CERCLA liability was not only nonexistent, but also completely unforeseeable, at the time the plan of dissolution was adopted. Accordingly, ECI’s agreement to assume all “absolute or

contingent" liabilities cannot be read to encompass future arising liabilities under the Superfund law enacted fifteen years later.

CONCLUSION

In summary, NCR's arguments either overlook or completely ignore the following aspects of the relevant corporate histories:

- In 1971, NCR forced out the minority shareholders of ECI, thus becoming ECI's sole stockholder, and then caused ECI's board to declare a dividend of ECI's entire Standard Precision Division, including title to the Gilbert site and the leasehold of the Pawnee site, as well as the business conducted by the division. Under equitable principles of corporate successorship, NCR took on any liabilities that existed within the Standard Precision division.
- NCR has indicated that Standard Precision was "merged" into ECI in 1965 and that ECI unquestionably assumed Standard Precision's liabilities. Standard Precision was, in fact, legally dissolved under Kansas law. Although ECI assumed "contingent" liabilities to facilitate the dissolution, the assumption did not encompass unknown environmental liabilities under CERCLA, which did not then exist.
- NCR does not dispute that the original Standard Products, which operated at the Gilbert site during the 1950s, *dissolved in 1961*. Basic principles of corporate law, as well as the Kansas statutes in effect at the time, provide that a corporation's liabilities do not survive its dissolution beyond a brief winding-up period.
- Unlike NCR, Raytheon had no involvement with the Gilbert and Pawnee sites and had no actual knowledge of any environmental problems at either facility. The former ECI Standard Precision had been fully absorbed into NCR well before any transactions that involved Raytheon. Accordingly, all the equities favor Raytheon, not NCR.

Please be assured that Raytheon has taken this matter seriously and remains willing to discuss the issues further if you believe we have overlooked anything

Ms. Denise L. Roberts
November 29, 2010
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important. We hope, however, that EPA will agree that Raytheon is not a liable party and that it should not have any further involvement with respect to either site.

Sincerely,

LATHROP & GAGE LLP


By: 
James F. Thompson

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Exhibit I	ECI 1962 Annual Report
Exhibit J	<i>Series of Moves Made by ECI to Expand Commercial Position</i> , ECI Communicator, July 1962.
Exhibit K	<i>Van Dusen Aircraft Buys Division of Electronic Communications, Inc.</i> , Wall St. J., Feb. 6, 1963.
Exhibit L	Application to Conduct Business in Kansas (Van Dusen), Apr. 24, 1963.
Exhibit M	Moody's <i>Van Dusen</i> , 1964.
Exhibit N	<i>Ryder System to Acquire Most of Van Dusen Air</i> , Business Wire, Inc., Oct. 28, 1986.
Exhibit O	<i>Sydney K. Murray is Named President of Standard; Facsimile Operation Moves to Wichita</i> , ECI Communicator, Apr. 1962.
Exhibit P	<i>Electronic Systems Firm Transfers Here</i> , Wichita Morning Eagle, Apr. 5, 1962.
Exhibit Q	<i>Aircraft Instrument Manufacturing Firm Fills Manager Post</i> , Wichita Morning Eagle, Apr. 30, 1962.
Exhibit R	ECI 1963 Annual Report.
Exhibit S	ECI Board of Directors Minutes, Sept. 27, 1965.
Exhibit T	Application for Radioactive Material License, Standard Precision, 4105 W. Pawnee, by H.W. Scudlo, Vice President, Feb. 24, 1965.
Exhibit U	Letter from E.L. Bailey to Kansas State Department of Health, June 17, 1970.
Exhibit V	Amendment No. 4 to Radioactive Materials License, 25-R061-01, issued June 23, 1970.
Exhibit W	Prospectus, Aug. 2, 1968 at 3.
Exhibit X	<i>Merger-Planned By ECI, NCR</i> , ECI Communicator, Apr. 1968, at 1.
Exhibit Y	<i>Exchanges to Suspend Trading in Two Stocks</i> , Wall St. J., Sept. 13, 1968, at 1.

Exhibit Z	ECI Report to Stockholders, Dec. 19, 1968.
Exhibit AA	NCR Application to Kansas Secretary of State, July 15, 1970.
Exhibit BB	Confirmatory Warranty Deed for 650 E. Gilbert, Dec. 29, 1971.
Exhibit CC	Written Consent of ECI Board of Directors in Lieu of Special Meeting, Dec. 28, 1971.
Exhibit DD	Plan of Merger of ECI Into ECI Merger Corp., Dec. 6, 1971.
Exhibit EE	<i>Standard Precision Shifts to NCR</i> , ECI Communicator, Dec. 1971, at 6.
Exhibit FF	<i>Wichita Plant Becomes Operating Unit of NCR</i> , Press Release, undated.
Exhibit GG	Affidavit of Kimberly L. Walsh, April 21, 1995.
Exhibit HH	Agreement of Sale between NCR and Aerosonic Corp., Sept. 7, 1972.
Exhibit II	Unified Focus Assessment Report by KDHE for Pawnee Site, Mar. 2007 (excerpt).
Exhibit JJ	Affidavit of Kirk Hamersky, Oct. 23, 1996.
Exhibit KK	Letter from CECO, Inc. to KDHE, Feb. 8, 1995.
Exhibit LL	Corporation Deed (General Warranty) Feb. 21, 1975.
Exhibit MM	ECI Board of Directors Minutes, June 16, 1976.
Exhibit NN	Agreement, Aug. 5, 1976.

ELECTRONIC COMMUNICATIONS, INC.
(formerly ECI Merger Corp.)

**Written Consent in Lieu of Meeting
of the Board of Directors**

The undersigned, being all the directors of **ELECTRONIC COMMUNICATIONS, INC.**, a New Jersey corporation, acting without a meeting pursuant to Section 14 A:6-7(2) of the New Jersey Business Corporation Law, as amended, do hereby consent to the following action:

1. **Adoption of the following resolutions:**

RESOLVED, that the actions of the officers of the Corporation in negotiating, in the name and on behalf of the Corporation, for the sale to the EDO Corporation, a New York corporation, of certain inventories, machinery and equipment, tooling, and an assignment of patents and patent applications, employed by Corporation's Standard Precision Division in the manufacture and sale of "Air Speed and Vertical Speed Indicators" and "High Cost and Low Cost Fuel System Indicators" under the terms and conditions set forth in "Agreement of Sale" dated as of December 30, 1971 (the "Agreement"), be and the same are hereby in all respects approved, ratified and confirmed as actions of the Corporation;

FURTHER RESOLVED, that the officers of the Corporation, or any of them, be and they are hereby authorized and directed, in the name and on behalf of the Corporation, to execute and deliver the Agreement, one or more bills of sale, and such further and other documents and to do such further and other acts and things as may by them, or any of them, be deemed necessary or convenient further to consummate such sale and to enable the Corporation to carry out its various obligations, undertakings and agreements in connection therewith.

2. Declaration of a dividend on the Common Stock of the Corporation, distributable at the commencement of business on January 3, 1972, to shareholders of record at the close of business on December 30, 1971, such dividend being a property dividend in kind consisting of all of the assets held and owned by the Corporation for and in connection with the Corporation's Standard Precision Division at Wichita, Kansas, and the business conducted by such Division, as such assets exist, and in the condition in which the same exist, on said distribution date, EXCEPTING cash (in hand or in banks), cash deposits, bank accounts and securities used by the Corporation in connection with such Division, and the Agreement of Sale dated December 30, 1971 by and between the Corporation and EDO Corporation together with the assets of the Corporation conveyed or to be conveyed to EDO Corporation as therein provided and all rights of the Corporation thereunder to receive cash payments of any kind from EDO Corporation; and the authorization of the officers of the Corporation to execute and deliver on said distribution date, in the name and on behalf of the Corporation, such bills of sale, deeds, lease and patent assignments and other instruments and documents, and to do such other and further acts and things, as they may deem necessary and proper in order to effectuate the distribution of such dividend.
3. Establishment of an Executive Committee consisting of three (3) directors of the Corporation, as authorized in Article VII of the By-Laws, vested with the power, among other things, to determine

and establish the compensation of officers of the Corporation; and the election of Messrs. J. J. Hangen, D. E. Eckdahl and P. L. Scott as the members of said Executive Committee.

4. Adoption of the following preambles and resolutions:

WHEREAS, effective on or about December 29, 1971, Electronic Communications, Inc. (hereinafter referred to as "ECI") was merged with and into ECI Merger Corp., and all of the assets and employees of ECI were transferred to ECI Merger Corp., which then became Electronic Communications, Inc. (hereinafter referred to as the "Company"); and the Company will continue the business of ECI without interruption except for the transfer of the Standard Precision Division of ECI to The National Cash Register Company on January 3, 1972; and

WHEREAS, for a number of years prior to the merger ECI had maintained various pension plans for the benefit of its employees as follows:

- (1) The Electronic Communications, Inc. - UAW Retirement Income Plan; established as a result of a collective bargaining agreement between ECI and the International Union, United Automobile, Aerospace and Agricultural

Implement Workers of America (UAW)

affiliated with AFL-CIO, and its local 298.

(2) The Standard Precision - Machinists District Lodge No. 70 Retirement Income Plan, established as a result of a collective bargaining agreement between ECI and the International Association of Machinists and Aerospace Workers, and its District Lodge No. 70, AFL-CIO.

(3) The Retirement Income Plan for Salaried Employees administered under a Trust Agreement dated April 5, 1983, between ECI and Chemical Bank New York Trust Company, as Trustee; and

WHEREAS, it is in the interests of the Company to continue the said Plans in order to preserve the benefits to the participating employees without interruption:

NOW, THEREFORE, BE IT RESOLVED THAT:

(1) The Company shall continue to maintain the said Plans referred to above and hereby assumes the rights and obligations of the Company thereunder.

(2) The officers of the Company be, and they hereby are, authorized and instructed to notify the Trustees, insurance companies and other parties involved, of the con-

tinuation of the said Plans, to execute such documents and take such action as may be necessary or convenient to effectuate the foregoing resolution.

5. Adoption of the following resolutions:

RESOLVED, That the officers of this Corporation, or any one or more of them, are hereby authorized to open a bank account or accounts from time to time with the Chemical Bank (hereinafter referred to as the "Bank"), for and in the name of this Corporation with such title or titles as he or they may designate.

That the President, Vice President-Finance, Vice President-Research and Engineering, Assistant Vice President-Finance, and Assistant Secretary of this Corporation, signing singly for amounts under \$5,000 and jointly for \$5,000 and over, and their successors in office, and any other person hereafter authorized to sign on behalf of this Corporation, are hereby authorized to sign checks, drafts, notes, acceptances, and other instruments, and orders for the payment or withdrawal of moneys, credits, items and property at any time held by the Bank for account of this Corporation, and the Bank is hereby authorized to honor any or all thereof and other instruments and orders authorized to be paid by the Bank, including such as may bring about an overdraft and such as may be payable to or for the benefit of any signer thereof or other officer or employee individually without inquiry as to the circumstances of the issue or the disposition of the proceeds thereof and without limit as to amount.

That the Bank is hereby authorized to accept for deposit for the account of this Corporation for credit, or for collection, or otherwise, any or all checks, drafts, notes and other instruments of every kind indorsed by any person or by hand stamp impression in the name of this Corporation or without indorsement.

That the officers of this Corporation or any one or more of them are hereby authorized to act for this Corporation in all other matters and transactions relating to any of its business with the Bank.

That each of the foregoing resolutions and the authority thereby conferred shall remain in full force and effect until written notice of revocation or modification shall be received by the Bank; that the Secretary or any Assistant Secretary or any other officer of this Corporation is hereby authorized and directed to certify, under the seal of this Corporation or not, but with like effect in the latter case, to the Bank the foregoing resolutions, the names of the officers and other representatives of this Corporation, any changes from time to time in the said officers and representatives and specimens of their respective signatures; and that the Bank may conclusively assume that persons at any time certified to it to be officers or other representatives of this Corporation continue as such until receipt by the Bank of written notice to the contrary.

RESOLVED, That the officers of this Corporation be and they are hereby authorized and directed to deposit the funds of this Corporation from time to time in The First National Bank in St. Petersburg, Florida subject to the Rules and Regulations of said Bank, and until further order of the Board of Directors of this Corporation, to withdraw the same from time to time upon check or other order of the Corporation and that any other individuals other than officers of this Corporation whose signatures may appear as authorized by this Board are authorized to withdraw funds in the same manner as set forth above for its officers, signed in the name of the Corporation by any one of the five individuals whose signatures appear on this card in the spaces so provided which are the genuine signatures of the individuals authorized to sign.

That said Bank be and is hereby authorized and requested to accept, honor and pay without further inquiry, all checks and other orders for the payment

or withdrawal of money deposited with said Bank in the name of this Corporation including checks drawn to the individual order of the individual(s) signing same and including also all such instruments payable or indorsed to the order of this Corporation when such checks or other orders for money shall be signed or indorsed in the name of this Corporation by the individual(s) authorized to so sign.

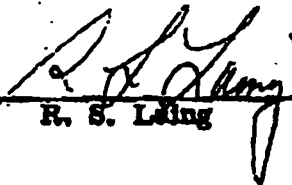
BE IT FURTHER RESOLVED, that said Corporation agrees to the Rules and Regulations printed on this card and that the foregoing powers and authority will continue until written notice of revocation has been given to said Bank.

RESOLVED. That the officers of this Corporation be and they are hereby authorized and directed to deposit the funds of this Corporation from time to time in The First State Bank, St. Petersburg, Florida, subject to the Rules and Regulations of said Bank, and until further order of the Board of Directors of this Corporation, to withdraw the same from time to time upon check or other order of the Corporation and that any other individuals other than officers of this Corporation whose signatures may appear as authorized by this Board are authorized to withdraw funds in the same manner as set forth above for its officers, signed in the name of the Corporation by any one individual for amounts of less than \$5,000 and by any two individuals for amounts of \$5,000 or more, for those individuals whose signatures may appear as authorized and which are the genuine signatures of the individuals authorized to sign.

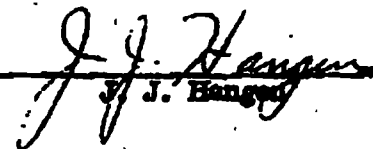
That said Bank be and is hereby authorized and requested to accept, honor and pay without further inquiry, all checks and other orders for the payment or withdrawal of money deposited with said Bank in the name of this Corporation, including checks drawn to the individual order of the individual(s) signing same and including also all such instruments payable or indorsed to the order of this Corporation, when such checks or other

orders for money shall be signed or indorsed
in the name of this Corporation by the individuals
authorized to so sign.

Dated this 30th day of December, 1971.


R. S. Laing


P. L. Scott


J. J. Hanger


C. L. Lord


D. E. Eckdahl


P. G. Hansel


J. H. Rambo

James L. Brown & H. M. - Dayton, Ohio

NOW, THEREFORE, in consideration of both of One Dollar (\$1.00), the receipt of which is hereby acknowledged, and of partial satisfaction of the distribution of the aforesaid dividend to the Grantee, the Grantor does by these presents grant, bargain, sell and convey unto the Grantee, its successors and assigns, all of the following-described REAL ESTATE, situated in the County of Sedgwick and State of Kansas,

CLERK OF KANSAS
SENECA COUNTY.
FILED C.R. RECORDS
JUL 10 1972

JAN 3 1972

JAN 3 1972
NO 1 000007
JOHN HALE
1000007

EX-100-100
TRAN-100-100
JAN - 3 1972
MARIE WARDEN
COUNTY CLERK

BEING the same property which Electronic Communications, Inc., a New Jersey corporation, conveyed to the Grantor herein as a consequence of the merger of said corporation into the Grantor on December 28, 1971, which conveyance was evidenced by a Confirmatory General Warranty Deed dated December 28, 1971 and recorded on December 29, 1971, in Deed Book 1543, page 486, et seq., at the office of the Register of Deeds of Sedgewick County, Kansas.

That's a New Jersey
of the merger

And the Grantor, for itself and for its successors, does hereby covenant, promise and agree to and with the said Grantee that at the delivery of these presents it is lawfully seized in its own right of an absolute and indefeasible estate of inheritance in fee simple of and in all and singular the above-granted and described premises, with the appurtenances; that the same are free, clear, discharged and unincumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments and incumbrances of any nature and kind whatsoever; and that the Grantor will WARRANT AND FOREVER DEFEND the same unto the said Grantee, its successors and assigns, against the Grantor and its successors and all and every person or persons whomsoever lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said Grantor has caused these presents

4th 10th 20th 30th 40th 50th 60th 70th 80th 90th 100th

to be duly executed as of the day and year first above written.

Signed, sealed and acknowledged in the presence of:

Dorothy M. Baker
Dorothy M. Baker

Mildred M. Newman
Mildred M. Newman

ELECTRONIC COMMUNICATIONS, INC.

By J. J. Hangan
J. J. Hangan, Vice President

And James E. Rambo
James E. Rambo, Assistant Secretary

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS.

Before me, a Notary Public, in and for said County, personally appeared J. J. Hangan, Vice President, and James E. Rambo, Assistant Secretary of Electronic Communications, Inc., the corporation which executed the foregoing instrument, who acknowledged that the seal affixed to said instrument is the corporate seal of said corporation; that they did sign and seal said instrument as such Vice President and Assistant Secretary in behalf of said corporation and by authority of its Board of Directors; and that said instrument is their free act and deed individually and as such Vice President and Assistant Secretary and the free and corporate act and deed of said Electronic Communications, Inc.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Dayton, Ohio this 27th day of December, 1971.



Dorothy M. Baker
Notary Public Dorothy M. Baker

My commission expires Nov 22, 1976

Publisher's Fee \$ _____

THE TOPEKA DAILY LEGAL NEWS

Affidavit of Publication

State of Kansas, Shawnee County, ss.

Roger Bergquist

being duly sworn, says that he is Publisher

of THE TOPEKA DAILY LEGAL NEWS, and that he knows that it is a newspaper which is continuously and uninterruptedly printed and published in Shawnee County, Kansas, daily and more than weekly fifty (50) times a year, and has been so published for more than one year prior to the first publication of the attached notice, and which is of general paid circulation on a daily basis, in said County and State; and is not a trade, religious or fraternal publication; and has been admitted to the mails as second class matter in said county and that the notice, of which the attached is a true copy, was published for 1 insertions in said newspaper, as follows:

1st insertion October 5, 1965

2nd insertion _____

3rd insertion _____

4th insertion _____

5th insertion _____

6th insertion _____

Roger Bergquist

SUBSCRIBED AND SWORN TO before me this 5 day

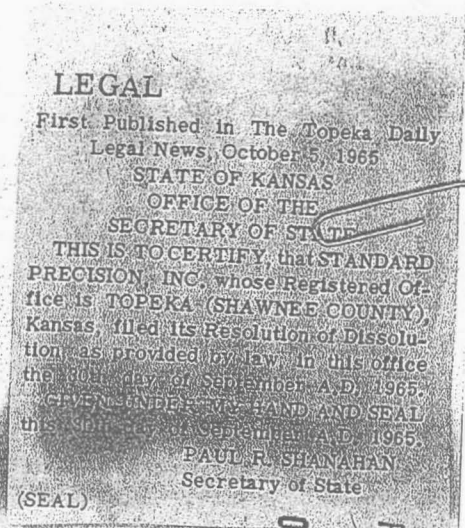
of October A. D. 1965

Agnes Miller

Notary Public.

My commission expires My Commission Expires March 5, 1969 19

Approved _____ Judge



FILED
PAUL R. SHANAHAN
CT 6 3 58 PM 1965
SECRETARY OF
STATE

DISSOLVED OCT 6 - 1965

ALIVE

~~STANDARD PRODUCTS, INC.~~
Name ~~PRODUCTION PRODUCTS, INC.~~
STANDARD PRECISION, INC. SHAWNEE
SEDGWICK COUNTY

Registered Office ~~201 First Nat'l. Bank Bldg.~~
~~523 Beacon Bldg. Topeka, Kansas~~
Wichita, Kansas

Resident Agent ~~The Corporation Company, Inc.~~
~~Richard P. Mullins~~
Same

Capital stock, \$ 50,000 - 1,000 sh C @ \$50.00

Received July 17 19 48

FEEES PAID

Application			25.00
Filing and Recording..			2.50
Capitalization			50.00

Filed July 17 19 48

Recorded, Book C-12 Page 13

Term 50 years

20-3806



7-44-5M



(3)

STATE OF KANSAS

**OFFICE OF SECRETARY OF STATE
TOPEKA**

**PAUL R. SHANAHAN
SECRETARY OF STATE**

October 6, 1965

*Mr. Warren Shaw, Attorney
700 Kansas Avenue
Topeka, Kansas*

Dear Sir:

**The proof of publication of the Certificate of
Dissolution of *STANDARD PRECISION, INC.*
has been filed with this office under the above date.**

**Therefore, in accordance with the statutes, the
effective date of dissolution is *October 6, 1965*
and our records have been marked accordingly.**

Very truly yours,

Paul R. Shanahan
**PAUL R. SHANAHAN
SECRETARY OF STATE.**

PRS:ms

(2)

STATE OF KANSAS

OFFICE OF SECRETARY OF STATE
TOPEKA

PAUL R. SHANAHAN
SECRETARY OF STATE

September 30, 1965

Richard E. Mullins, 1864
Leeson Building
Wichita, Kansas 67202

Dear Sir:

The stockholder's written consent to dissolution of the *STANDARD PERCUSSION, INC.* has been filed with this office under the above date, and we are enclosing our official Certificate of Dissolution for publication one time in *SHAWNEE* County, Kansas.

As soon as the proof of publication has been returned and filed with this office, we will notify you as to the effective date of dissolution.

The enclosed Certificate is also to be recorded in the office of the Register of Deeds in *SHAWNEE* County.

Very truly yours,

Paul R. Shanahan
PAUL R. SHANAHAN
SECRETARY OF STATE.

PRS:ms

** Please return proof of publication as soon as possible.

STATE OF KANSAS



OFFICE OF THE SECRETARY OF STATE

THIS IS TO CERTIFY, That STANDARD PRECISION, INC.

whose Registered Office is TOPEKA (SEWARD COUNTY), Kansas,

filed its Resolution of Dissolution, as provided by law, in this office the 30th day of

SEPTEMBER A. D. 1965.

GIVEN UNDER MY HAND AND SEAL this 30th day

of SEPTEMBER A. D. 1965.

Paul R. Shanahan
Secretary of State.

By _____
Assistant Secretary of State.

CONSENT OF SOLE STOCKHOLDER
TO DISSOLUTION OF
STANDARD PRECISION, INC.

The Board of Directors of Standard Precision, Inc., a
Kansas corporation, having at a special meeting duly held on
September 27, 1965 adopted the following resolution:

"RESOLVED, that it is deemed advisable,
in the judgment of the Board of Directors and
for the benefit of the Corporation, that the
Corporation should be dissolved."

the undersigned, being the owner of all of the issued and
outstanding stock of Standard Precision, Inc., a Kansas corporation,
hereby consents in writing, pursuant to Section 17-3603 of the
General Corporation Code of Kansas (General Statutes 1949), to
the dissolution of Standard Precision, Inc.

In witness whereof, the undersigned has caused this
consent to be executed this 27th day of September, 1965.

ELECTRONIC COMMUNICATIONS, INC.

[CORPORATE SEAL]

By

President

Attest:

P. L. Lord

Secretary

SECRETARY OF
STAFF

SEP 30 2 44 PM 1965

PAUL R. SHANAHAN

FILED

August 2, 1963

Arn, Mullins, Unruh & Kuhn, Lawyers
Beacon Building
Wichita, Kansas 67202

Gentlemen:

We are enclosing a certified copy of Certificate of Amendment to Articles of Incorporation of STANDARD PRODUCTS, INC., changing their name to STANDARD PRECISION, INC., which has been filed with this office August 2, 1963.

Very truly yours

PAUL R. SHANAHAN
Secretary of State

WP
Encl

LAW OFFICES OF
ARN, MULLINS, UNRUH & KUHN
SEADON BUILDING
WICHITA 3, KANSAS 67202
AMHERST 7-5267

EDWARD F. ARN
RICHARD F. MULLINS
MILO M. UNRUH
H. R. KUHN
BERNICE BURKET

August 1, 1963

Office of Secretary of State
State Capitol Building
Topeka, Kansas

Re: Standard Products, Inc.

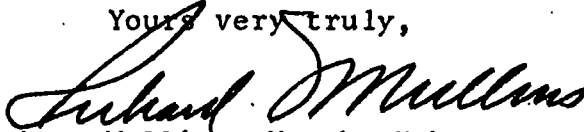
Gentlemen:

We enclose the original and one executed copy of Certificate of Amendment to Articles of Incorporation of Standard Products, Inc. setting forth the resolution to change the corporate name to Standard Precision, Inc.

We will appreciate your certifying the enclosed copy of the Certificate of Amendment and returning the same to us at your early convenience.

Our check for \$2.50 is also enclosed to cover the statutory fee for this service. If this amount is incorrect, please bill us for any additional amount due.

Yours very truly,


of Arn, Mullins, Unruh, Kuhn & Cates

RFM:g
encs.

CERTIFICATE OF AMENDMENT TO ARTICLES OF INCORPORATION

OF
STANDARD PRODUCTS, INC.

STATE OF KANSAS
COUNTY OF Sedgwick

We, S. M. Murray, President, and H. E. Morgan, Assistant Secretary of Standard Products, Inc.,

a corporation organized and existing under the laws of the State of Kansas; and whose registered office is The Corporation Company, Inc., First National Bank Building, Topeka, Shawnee

(Street and Number) (Town or City) (County)
Kansas, do hereby certify that at the special meeting of the Board of Directors of said corporation held on the 17th day of July, 1963, said board adopted a resolution setting forth the following amendment to the Articles of Incorporation and declared its advisability, to wit:

BE IT RESOLVED, That the name of this corporation be changed from Standard Products, Inc. to Standard Precision, Inc.

That thereafter, pursuant to said resolution and in accordance with the by-laws and the laws of the State of Kansas, said directors called a meeting of stockholders for the consideration of said amendment, and thereafter, pursuant to said notice and in accordance with the statutes of the State of Kansas, on the 17th day of July, 1963, said stockholders met and convened and considered said proposed amendment.

That at said meeting the stockholders entitled to vote did vote upon said amendment, and two judges duly appointed for the purpose conducted said vote deciding upon the qualification of voters and declared that the majority of voting stockholders of the corporation had voted for the proposed amendment certifying that the votes

were All shares in favor of the proposed amendment and No shares against the amendment.

That said amendment was duly adopted in accordance with the provisions of Chapter 17, Article 42, General Statutes of Kansas, 1949, and amendments thereto.

That the capital of said corporation will not be reduced under or by reason of said amendment.

IN WITNESS WHEREOF we have hereunto set our hands and affixed the seal of

said corporation this 30 day of July, 1963

[SEAL] S. M. Murray, President or Vice-President
H. E. Morgan, Secretary or Assistant Secretary

STATE OF KANSAS,
COUNTY OF Sedgwick } ss.

Be it remembered, that before me _____ a Notary Public
in and for the County and State aforesaid, came S. M. Murray
President, Vice-President and H. E. Morgan Secretary, Assistant Secretary
of Standard Products, Inc., _____ a corporation, personally known to me
to be the persons who executed the foregoing instrument of writing as President
and Assistant Secretary respectively, and duly acknowledged the execution of the
same this 30th day of July 1963

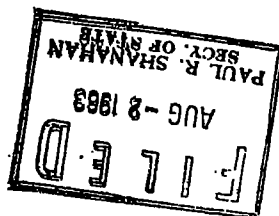
[SEAL]

Nina Lee Baker

Notary Public.

My commission expires _____, 19__

My Commission Expires June 9, 1965



Office of Secretary of State
Topeka, Kansas
August 2, 1963
STANDARD PRECISION, INC.
Received of _____
Two and fifty/100 _____
Dollars, _____
fee for _____
filing the within Certificate of Amendment.
Paul R. Shanahan Secretary of State
Nina Lee Baker Assistant Secretary of State

October 10, 1961

Howard H. Becker, Attorney
First National Bank Bldg.
Topeka, Kansas

Dear Sir:

We are enclosing Certified Copies of Change
of Location of Registered Office and Change of Resi-
dent Agent of STANDARD PRODUCTS, INC., which has been
filed with this office October 10, 1961.

Very truly yours

PAUL R. SHANAHAN
Secretary of State

WP
Encl

Copies. 1 name: H.H.B.

LAW OFFICES
COLMERY & SMITH
FIRST NATIONAL BANK BUILDING
TOPEKA, KANSAS

HARRY W. COLMERY
JAMES E. SMITH

TELEPHONE CENTRAL 2-0564

FLOYD F. SHIELDS
HOWARD H. BECKER
CLYDE N. CHRISTEY

9 October 1961

Mr. James L. Galle, Counsel
Secretary of State
State House
Topeka, Kansas

In re: STANDARD PRODUCTS, INC.
(Kan. Dom.)

Dear Sir:

We enclose herewith:

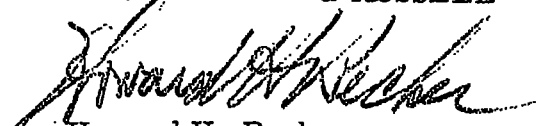
1. Certificate and copy of Resolution changing the registered office and resident agent of the above corporation, for filing in your office.
2. Check No. 6446 of C T Corporation System to your order in the amount of \$5.00, covering the filing fee.

Will you please send the certified copy (ies) to us as soon as possible?

Thanking you for your cooperation, we are,

Very truly yours,

COLMERY & SMITH & RUSSELL


Howard H. Becker

C.L.D.
HHB/mk
Encls.

Please Direct response to
attention of Howard H. Becker

*P.S. Please certify both
Copies. Thanks! JHB*

7

**CHANGE OF LOCATION OF REGISTERED OFFICE
AND/OR
CHANGE OF RESIDENT AGENT**

STATE OF Kansas }
COUNTY OF Sedgwick } ss.

We, LeRoy S. Horton President and C. L. Lord Secretary of
Standard Products, Inc. (formerly Production Products, Inc.)
a corporation organized and existing under and by virtue of the laws of the State of Kansas
whose Registered Office in the State of Kansas is 523 Beacon Building
Wichita 2, Sedgwick County Kansas
(Town or City) (County) (State)
do hereby certify that at a special meeting of the Board of Directors of said corporation
(Regular or Special)
held on the 28th day of August 1961 the following resolution was duly adopted.

Be it resolved that the *Registered Office* in the State of Kansas of said corporation be changed from
201
523 Beacon Building Wichita 2 Sedgwick Kansas
(Street and Number) (Town or City) (County) (State)
the same being of record in the office of the Secretary of State of Kansas to FIRST NATIONAL
BANK BUILDING, TOPEKA, SHAWNEE COUNTY, KANSAS, c/o THE CORPORATION COM-
PANY, INC.

Be it further resolved that the *Resident Agent* of said corporation in the State of Kansas be changed
from Richard F. Mullins
(Individual or Corporation)
201
523 Beacon Building Wichita 2 Sedgwick Kansas
(Street and Number) (Town or City) (County) (State)
the same being of record in the office of Secretary of State of Kansas to
THE CORPORATION COMPANY, INC.
FIRST NATIONAL BANK BUILDING, TOPEKA, SHAWNEE COUNTY, KANSAS.

The President and Secretary are hereby authorized to file and record the same in the manner as
required by law.

LeRoy S. Horton

C. L. Lord

President

Secretary

[SEAL]

OFFICE OF SECRETARY OF STATE

Topeka, Kansas

RECEIVED OF STANDARD PRODUCTS, INC.

Five and no/100 -----

Dollars,

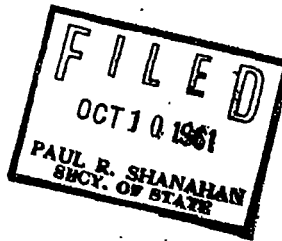
fee for Change of Location of REGISTERED OFFICE and/or CHANGE OF RESIDENT AGENT.

Dated this 10th day of October 19 61

By

James L. Galt
Assistant Secretary of State.

Paul R. Shanahan
Secretary of State.



CHANGE OF LOCATION OF
REGISTERED OFFICE
and/or
RESIDENT AGENT

"NINTH: The number of Directors shall be not less than five (5) and not more than eleven (11) as determined by resolution of the stockholders of the Corporation at any annual or special meeting."

2. Thereafter, pursuant to the foregoing resolutions and in accordance with the by-laws and the laws of the State of Kansas, the Board called a meeting of stockholders for the consideration of the foregoing amendments, and thereafter, pursuant to notice and in accordance with the statutes of the State of Kansas, on the 28th day of August, 1961, the stockholders of the Corporation met and convened and considered the proposed amendments.

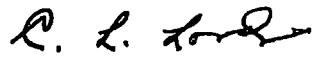
3. At said meeting the stockholders entitled to vote did vote upon the proposed amendments and two judges duly appointed for the purpose conducted the vote, deciding upon the qualification of voters, and declared that the sole stockholder of the Corporation had voted for the proposed amendments, certifying that the votes were 466 shares of Common Stock in favor of the proposed amendments and no shares of Common Stock against the amendments.

4. The amendments were duly adopted in accordance with the provisions of Chapter 17, Article 42, of the General Statutes of Kansas, 1949.

5. The capital of the Corporation will not be reduced under or by reason of the amendments.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed the seal of the Corporation this 1st day of September, 1961.


LeRoy B. Horton, President


C. L. Lord, Secretary

(SEAL)

CERTIFICATE OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
PRODUCTION PRODUCTS, INC.

STATE OF KANSAS :
COUNTY OF SEDGWICK : ss.

We, LeRoy S. Horton, President, and C. L. Lord,
Secretary, of PRODUCTION PRODUCTS, INC., a corporation organized
and existing under the laws of the State of Kansas, and whose
registered office is 523 Beacon Building, Wichita 2, Sedgwick
County, Kansas, do hereby certify that:

1. At a special meeting of the Board of Directors of
the Corporation held on the 11th day of August ,
1961, the Board adopted resolutions setting forth the following
amendments to the Articles of Incorporation and declared their
advisability, to wit:

WHEREAS, it being deemed advisable to change the
name of Production Products, Inc. to Standard Products,
Inc.

BE IT RESOLVED, that Article First of the Articles
of Incorporation of Production Products, Inc. be amended
to read as follows:

"FIRST: The name of the Corporation is
Standard Products, Inc."

WHEREAS, it being deemed advisable to increase the
authorized number of Directors to not less than five (5)
and not more than eleven (11).

BE IT RESOLVED, that Article Ninth of the Articles
of Incorporation of Production Products, Inc. be amended
to read as follows:

STATE OF KANSAS :
COUNTY OF SEDGWICK : ss.

Be it remembered, that before me
a Notary Public in and for the County and State aforesaid, came
LeRoy S. Horton, President, and C. L. Lord, Secretary, of Production
Products, Inc., a corporation, personally known to me to be the
persons who executed the foregoing instrument of writing as
President and Secretary, respectively, and duly acknowledged the
execution of the same this 1st day of September, 1961.


Notary Public Nina Lee Baker

(SEAL)

My Commission Expires:
My Commission Expires June 9, 1965

OFFICE OF SECRETARY OF STATE

Topeka, Kansas Sept. 11 1961

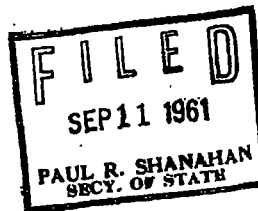
Received of STANDARD PRODUCTS, INC.

Two and fifty/100 ----- Dollars,

fee for filing the within Amendment.

Paul R. Shanahan
Secretary of State.

By James L. Galt
~~Chief Clerk~~
Assistant Secretary of State



CERTIFICATE OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
PRODUCTION PRODUCTS, INC.

Whose Registered Office is
523 Beacon Building,
Wichita 2, Sedgwick County,
Kansas

September 11, 1961

Arn, Mullins, Unruh & Kuhn
Beacon Building
Wichita 2, Kansas

Attn: Richard Mullins

Dear Sir:

Enclosed please find a certified copy of the Certificate of Amendment to Articles of Incorporation of PRODUCTION PRODUCTS, INC., changing the name to STANDARD PRODUCTS, INC., filed with this office September 11, 1961.

Very truly yours,

PAUL R. SHANAHAN
Secretary of State

mb
Encl.

LAW OFFICES OF
ARN, MULLINS, UNRUH & KUHN
BEACON BUILDING
WICHITA 2, KANSAS
AMHERST 7-5267

EDWARD F. ARN
RICHARD F. MULLINS
MILD M. UNRUH
H. R. KUHN
C. WARNER EISENBISSE
BERNICE BURKET

September 8, 1961

James L. Galle, Counsel
Office of Secretary of State
State House
Topeka, Kansas

Re: Certificate of Amendment to
Articles of Incorporation of
Production Products, Inc.

Dear Sir:

Thank you for your letter of September 7
calling our attention to our failure to enclose a check
for the filing of the Certificate of Amendment in the
above matter. We apologize for this oversight and enclose
our check for \$2.50 to cover the filing of the Amendment.

Yours very truly,

Richard Mullins
of Arn, Mullins, Unruh & Kuhn

RFM:g
enc.

C. F. A.

ARN, MULLINS, UNRUH & KUHN
ATTORNEYS AT LAW
WICHITA, KANSAS

September 7, 1961

September 5, 1961

Richard F. Mullins
Arn, Mullins, Unruh & Kuhn
Beacon Building
Wichita 2, Kansas

Dear Sir:

We are in receipt of your letter and enclosed Certificate of Amendment of Production Products, Inc. dated September 5, 1961.

You state in your letter that you are enclosing a check in the amount of \$2.50, however none was enclosed. We are holding the amendment in our suspense file, and upon your remittance in this amount we will be pleased to complete filing and return your certified copy to you.

Very truly yours,

James L. Galle
Counsel
We also enclose
copy of the filing of this amendment

James L. Galle
Counsel

We also enclose
copy of the filing of this amendment

JLG:jmj

ts,

te

LAW OFFICES OF
ARN, MULLINS, UNRUH & KUHN
SEACON BUILDING
WICHITA 2, KANSAS
AMHERST 7-5267

EDWARD F. ARN
RICHARD F. MULLINS
MILD M. UNRUH
H. R. KUHN
D. WARNER EISENBIBB
BERNICE BURKET

September 5, 1961

Office of Secretary of State
State Capitol Building
Topeka, Kansas

Re: Certificate of Amendment to Articles
of Incorporation of Production Products, Inc.

Gentlemen:

Enclosed please find the original and one copy, executed, of a Certificate of Amendment to Articles of Incorporation of Production Products, Inc., changing the name of that corporation to Standard Products, Inc.

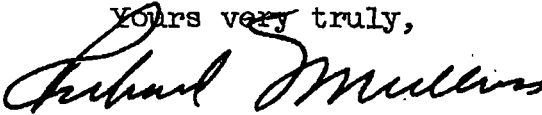
There is also enclosed a letter addressed to the Secretary of State of the State of Kansas and to Production Products, Inc. authorizing and consenting to the use of the name Standard Products, Inc. by Production Products, Inc., which letter is signed by Standard Products, Inc., with attestation.

We also enclose our check in the amount of \$2.50 to cover the filing of this Certificate.

Please return a certified copy of the Certificate at your earliest convenience.

Under separate cover we have forwarded to you this date proof of publication of the Certificate of Dissolution of Standard Products, Inc.

Yours very truly,


of Arn, Mullins, Unruh & Kuhn

RFM:g
enc.

To Secretary of State
State of Kansas

and

To Production Products, Inc.

Dear Sirs:

The Board of Directors of Standard Products, Inc. at its meeting held on June 27, 1961 adopted a resolution consenting and agreeing that Production Products, Inc., a Kansas corporation, may use, and may adopt by amendment to its Articles of Incorporation the name, Standard Products, Inc.

Very truly yours,

Standard Products, Inc.

By

LeRoy L. Horton
President

Attest:

Whitman

Secretary

To Secretary of State
State of Kansas

and

To Production Products, Inc.

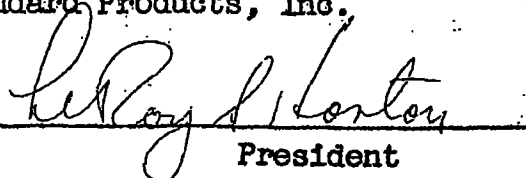
Dear Sirs:

The Board of Directors of Standard Products, Inc. at its meeting held on June 27, 1961 adopted a resolution consenting and agreeing that Production Products, Inc., a Kansas corporation, may use, and may adopt by amendment to its Articles of Incorporation the name, Standard Products, Inc.

Very truly yours,

Standard Products, Inc.

By


President

Attest:



Secretary

November 29, 1957

Arn & Mullins, Lawyers
Beacon Building
Wichita 2, Kansas

Gentlemen:

Enclosed please find a Certified Copy of
Change of Location of Registered Office and Change
of Resident Agent's Office Address of PRODUCTION
PRODUCTS, INC., filed with this office November 27,
1957.

Very truly yours

PAUL R. SHANAHAN
Secretary of State

WP
Encl

of Arn & Mullins

LAW OFFICES OF
ARN & MULLINS
BEACON BUILDING
WICHITA 2, KANSAS

EDWARD F. ARN
RICHARD F. MULLINS
MILD M. UNRUH
WILLIAM P. TIMMERMAN
H. R. KUHN
BERNICE BURKET

TELEPHONE
AMHERST 7-5267

November 26, 1957

Secretary of State
State House
Topeka, Kansas

Re: Production Products, Inc.

Dear Sir:

Enclosed please find Change of Location of
Registered Office and/or Change of Resident Agent
on behalf of the above corporation, together with
the corporation's check in the amount of \$5.00 for
filing fee.

Yours very truly,



of Arn & Mullins

RFM:g
enc.

CHANGE OF LOCATION OF REGISTERED OFFICE
AND/OR
CHANGE OF RESIDENT AGENT

STATE OF Kansas
COUNTY OF Sedgwick } ss.
We, LeRoy Horton President and Richard F. Mullins Secretary of
Production Products, Inc.,

a corporation organized and existing under and by virtue of the laws of the State of Kansas
whose Registered Office in the State of Kansas is 201 Beacon Building
Wichita (2) Sedgwick Kansas
(Town or City) (County) (State)
do hereby certify that a regular meeting of the Board of Directors of said corporation held
(Regular or Special)
on the 2nd day of January 19 57, the following resolution was duly adopted.

Be it resolved that the *Registered Office* in the State of Kansas of said corporation be changed from
827 Beacon Building Wichita Sedgwick Kansas
(Street and Number) (Town or City) (County) (State)
the same being of record in the office of the Secretary of State of Kansas to 201 Beacon Building
Wichita (2) Sedgwick Kansas
(Town or City) (County) (State)

Be it further resolved that the *Resident Agent* of said corporation in the State of Kansas be changed from
Richard F. Mullins
(Individual or Corporation)
827 Beacon Building Wichita Sedgwick Kansas
(Street and Number) (Town or City) (County) (State)
the same being of record in the office of Secretary of State of Kansas to

Richard F. Mullins
(Individual or Corporation)
201 Beacon Building Wichita (2) Sedgwick Kansas
(Street and Number) (Town or City) (County) (State)

The President and Secretary are hereby authorized to file and record the same in the manner as required
by law.

LeRoy Horton President.
Richard F. Mullins Secretary.

[SEAL]

20-7085-5-32-30-37

2-57-3M

Form No. 208C

OFFICE OF SECRETARY OF STATE

Topeka, Kansas

Received of PRODUCTION PRODUCTS, INC.

Five and no/100 -----

Dollars,

fee for Change of Location of REGISTERED OFFICE and/or CHANGE OF RESIDENT AGENT.

Dated this 27th day of November 1957

By

Paul R. Shanahan
Secretary of State.

Edward B. Converse
Assistant Secretary of State.

A-19-60

NOV 27 11 54 AM '57

NOV 27 11 54 AM '57

STATE OF KANSAS

OFFICE OF SECRETARY OF STATE
TOPEKA

July 15, 1948

Holmes, Baker, Arn and Mullins
Attorneys at Law
Suite 517-523 Beacon Building
Wichita, Kansas

Attention: Richard Mullins

Dear Sir:

We are returning herewith the Articles of Incorporation of PRODUCTION PRODUCTS, INC. so that you may have the same notarized.

Very truly yours,

Secretary of State

HW:AIC
ENC.

HOLMES, BAKER, ARN AND MULLINS
ATTORNEYS AT LAW

SUITE 517-523 BEACON BUILDING

WICHITA 2, KANSAS

W. E. HOLMES
HOWARD L. BAKER
EDWARD F. ARN
RICHARD F. MULLINS
DONALD I. MITCHELL
LYNDON GAMELSON

TELEPHONE
2-4404
2-4405
2-4406

July 14, 1948

Secretary of State
State House
Topeka, Kansas

Re: Production Products, Inc.

Dear Sir:

Enclosed please find the original and one executed copy of Articles of Incorporation of Production Products, Inc., together with a check in the amount of \$77.50, being \$50.00 for the capitalization fee, \$25.00 for the application fee, and \$2.50 for filing and recording fee.

Yours very truly,

HOLMES, BAKER, ARN and MULLINS

By

Richard Mullins

RFM:G
encs.

STATE OF KANSAS

OFFICE OF SECRETARY OF STATE

TOPEKA

July 17, 1948

Holmes, Baker, Arn and Mullins, Attorneys
Suite 517-523 Beacon Building
Wichita 2, Kansas

Gentlemen:

Enclosed please find our Certificate attached to
your copy of Articles of Incorporation of PRODUCTION
PRODUCTS, INC., filed with this office as of July 17,
1948.

Very truly yours

Secretary of State

WP
Encl

HOLMES, BAKER, ARN AND MULLINS

ATTORNEYS AT LAW

SUITE 517-523 BEACON BUILDING

WICHITA 2, KANSAS

W. E. HOLMES
HOWARD L. BAKER
EDWARD F. ARN
RICHARD F. MULLINS
DONALD I. MITCHELL
LYNDON GAMELSON

TELEPHONE
2-4404
2-4405
2-4406

July 16, 1948

Secretary of State
State House
Topeka, Kansas

In re: Production Products, Inc.

Dear Sir:

We return herewith original and copy of Articles of Incorporation of Production Products, Inc., which have been duly notarized.

Yours very truly,

HOLMES, BAKER, ARN and MULLINS

By

Richard F. Mullins

RFM:G
enc.

ARTICLES OF INCORPORATION

Of

PRODUCTION PRODUCTS, INC.

WE, the undersigned, incorporators, hereby associate ourselves together to form and establish a corporation FOR profit under the Laws of the State of Kansas.

FIRST: The Name of the Corporation is PRODUCTION PRODUCTS, INC.

SECOND: The Location of its Registered Office in this State is:

523 Beacon Building
Wichita 2, Sedgwick
County, Kansas.

THIRD: The Name and Address of its Resident Agent in this State is:

Richard F. Mullins,
523 Beacon Building,
Wichita 2, Sedgwick County, Kansas.

FOURTH: This Corporation is organized FOR profit and the nature of its business is:

The carrying on and conducting of a general machine shop and manufacturing plant for the machining and manufacturing of metallic and non-metallic products to be used in production;

For the carrying on and conducting of a general manufacturing business for the manufacture of metallic and non-metallic products for consumption;

For the conducting of a general wholesale and retail business;

For the handling, sale and distribution of all types of automotive and aircraft parts and supplies;

Also, for the purpose of contracting and sub-contracting business in connection with the manufacture of metallic and non-metallic items;

To buy, sell, distribute at wholesale and retail, various mechanical, electric, automotive and aircraft devices, machinery and equipment;

To manufacture, sell and distribute any and all merchandise and wares;

To hold, purchase, acquire, sell, convey, lease, mortgage, and dispose of property, real or personal, tangible or intangible, including its rights, privileges and franchises; to have power to acquire, purchase, hold, lease, convey, mortgage, and pledge real and personal property; power to borrow money and issue, sell, or pledge bonds, promissory notes, bills of exchange, debentures and other obligations and evidences of indebtedness, secured or unsecured, and to purchase, acquire, subscribe for, guarantee, hold and dispose of the shares, bonds, and other evidences of indebtedness or contracts of any other corporation, domestic or foreign;

To establish and maintain branch locations and places of business within and without the State as may be necessary for the carrying out of the provisions herein contained;

To appoint such officers and agents as the business of the corporation shall require and to allow them suitable compensation; to do all acts, requisite and proper, to qualify under the laws of any State, to domicile the corporation in and to do business in any other State or territory of the United States; and to do all acts necessary, convenient or expedient to accomplish the purposes of this corporation in so far as provided and permitted by the Laws of the State of Kansas.

FIFTH: The total amount of capital of this corporation is Fifty Thousand Dollars (\$50,000.00), and the total number of shares into which it is divided is as follows:

1,000 shares of Common Stock of a par value of \$50.00 each;

Said Common Stock to have the exclusive voting power and to have all of the rights of Common Stock provided by the Laws of the State of Kansas.

Stockholders owning stock in this corporation, after said stock has been issued and fully paid for, shall not be liable, personally or individually, for payment of corporation debts.

Whenever a compromise or arrangement is proposed between this corporation and its creditors, or any class of them, secured or unsecured, or between this corporation and its stockholders, or any class of them, any court, State or Federal, of competent jurisdiction within the State of Kansas may on the application in a summary way of this corporation, or of any creditor, secured or unsecured, or stockholders

thereof, or on the application of Trustees in dissolution, or on the application of any receiver, or receivers, appointed for this corporation by any court, State or Federal, of competent jurisdiction, order a meeting of the creditors, or class of creditors, secured or unsecured, or of the stockholders, or class of stockholders, of this corporation, as the case may be, to be summoned in such manner as said court directs. If a majority in number representing three-fourths in value of the creditors, or class of creditors, or of the stockholders, or class of stockholders, of this corporation, as the case may be, agree to any compromise or arrangement, and to any reorganization of this corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the Court to which the said application has been made, be binding upon all the creditors; or class of creditors, or on all the stockholders, or class of stockholders, of this corporation, as the case may be, and also on this corporation.

Statement of Grant of Authority, as may be desired to be given to the Board of Directors, if given:

The Board of Directors shall have all the usual and customary powers of a Board of Directors of a corporation as provided by the By-Laws of this Corporation.

SIXTH: The minimum amount of capital with which this Corporation will commence business is Ten Thousand Dollars (\$10,000) value in cash and assets.

SEVENTH: The Name and Place of Residence (P. O. Address) of each of the incorporators:

E. L. Crabb,	4601 East First Street, Wichita, Kansas.
Richard F. Mullins,	523 Beacon Building, Wichita 2, Kansas.
Ralph Kester,	204 North Hydraulic, Wichita, Kansas.
H. Wendell Helms,	952 North Vassar, Wichita, Kansas.

EIGHTH: The Term for which this Corporation is to exist is FIFTY YEARS.

NINTH: The Number of Directors shall be not less than three (3) nor more than five (5), as determined by Resolution of the

stockholders of the Corporation at annual meeting.

IN TESTIMONY WHEREOF, We have hereunto subscribed our
names this 12th day of July, 1948.

E. L. Cross

Richard Mullins

Ralph Kester

F. Wendell Helmer

STATE OF KANSAS)
 : SS
COUNTY OF SEDGWICK)

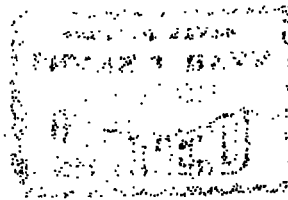
Personally appeared before me, a Notary Public in and for Sedgwick County, Kansas, the above named E. L. CRABB, RICHARD F. MULLINS, RALPH KESTER, and H. WENDELL HELMS, who are personally known to me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 12th day of July, 1948.

Laura L. Griffiths
Notary Public

My commission expires:

Aug. 18, 1951

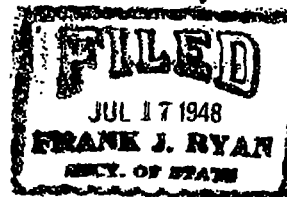


July 17, 1948 Application fee \$25.00 Filing and recording fee \$2.50
Capitalization fee \$50.00

By

Chief Clerk

Secretary of State



C-12-13.

1. "WHITING", "BUTLER", "AND M. J. BROWN" ARE THE PERSONS
2. FOR WHOM THE "BUTLER" ARE THE ONLY NAMES IN THE
3. "BUTLER" ARE THE ONLY NAMES IN THE
4. "BUTLER" ARE THE ONLY NAMES IN THE

ALIVE

DISSOLVED

SEP 11 1961

Name - STANDARD PRODUCTS, INC.

SEDGEWICK COUNTY

Registered Office 650 East Gilbert

Wichita, Kansas

Resident Agent Richard F. Mullins

827 Beacon Bldg.

Wichita 2, Kansas

Capital stock, \$100,000 - 1,000 c @ \$100

Received 19

FEES PAID

Application			25.00
Filing and Recording ..			2.50
Capitalization			100.00

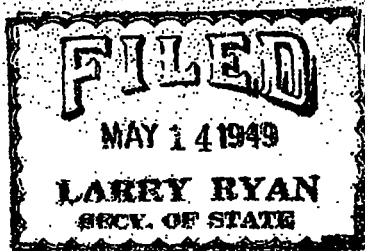
Filed May 14 19 49

Recorded, Book C-13 Page 855

Term 50 years

20-3806

7-14-5M



STATE OF KANSAS
OFFICE OF SECRETARY OF STATE
TOPEKA

PAUL R. SHANAHAN
SECRETARY OF STATE

August 21, 1961

Richard F. Mullins
Arn, Mullins, Unruh & Kuhn
Beacon Building
Wichita 2, Kansas

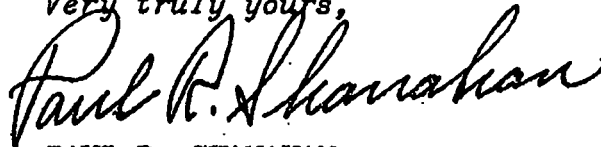
Dear Sir:

The stockholder's written consent to dissolution of the STANDARD PRODUCTS, INC., has been filed with this office under the above date, and we are enclosing our official Certificate of Dissolution for publication one time in Sedgwick County, Kansas.

As soon as the proof of publication has been returned and filed with this office, we will notify you as to the effective date of dissolution.

The enclosed Certificate is also to be recorded in the office of the Register of Deeds in Sedgwick County.

Very truly yours,



PAUL R. SHANAHAN
SECRETARY OF STATE.

PRS:jmj

Encl.

STATE OF KANSAS



OFFICE OF THE SECRETARY OF STATE

THIS IS TO CERTIFY, That STANDARD PRODUCTS, INC.

whose Registered Office is Wichita, Sedgwick County, Kansas,

filed its Resolution of Dissolution, as provided by law, in this office the 21st day of

August A. D. 1961.

GIVEN UNDER MY HAND AND SEAL this 21st day

of August A. D. 1961.

Paul R. Shanahan Secretary of State.

By _____
Assistant Secretary of State.



LAW OFFICES OF
ARN, MULLINS, UNRUH & KUHN
BEACON BUILDING
WICHITA 2, KANSAS
AMHERST 7-5267

EDWARD F. ARN
RICHARD F. MULLINS
MILD M. UNRUH
H. R. KUHN
C. WARNER EISENBERG
BERNICE BURKET

August 14, 1961

Office of Secretary of State
State Capitol Building
Topeka, Kansas

Re: Dissolution of Standard Products, Inc.

Gentlemen:

Enclosed please find the original and one executed copy by Air Associates, Inc., sole stockholder of the issued and outstanding stock of Standard Products, Inc., a corporation, Consent to the Dissolution of Standard Products, Inc.

We will appreciate receiving a Certificate of Dissolution so that the same may be published and proof of such publication filed with your office.

Yours very truly,



of Arn, Mullins, Unruh & Kuhn

RFM:g
encs.

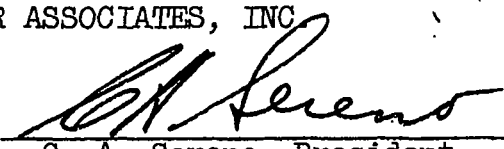
CONSENT TO DISSOLUTION
OF
STANDARD PRODUCTS, INC.

The undersigned, the owner of all of the issued and outstanding stock of Standard Products, Inc., a Kansas corporation, hereby consents in writing, pursuant to Section 17-3603 of the General Corporation Code of Kansas (General Statutes 1949), to the dissolution of Standard Products, Inc.

In witness whereof, the undersigned has caused this consent to be executed this 24th day of July 1961.

AIR ASSOCIATES, INC

By


C. A. Sereno, President

Attest:



C. L. Lord, Secretary

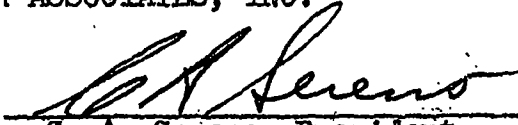
CONSENT TO DISSOLUTION
OF
STANDARD PRODUCTS, INC.

The undersigned, the owner of all of the issued and outstanding stock of Standard Products, Inc., a Kansas corporation, hereby consents in writing, pursuant to Section 17-3603 of the General Corporation Code of Kansas (General Statutes 1949), to the dissolution of Standard Products, Inc.

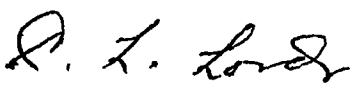
In witness whereof, the undersigned has caused this consent to be executed this 24th day of July 1961.

AIR ASSOCIATES, INC.

By


C. A. Sereno, President

Attest:


C. L. Lord, Secretary

STATE OF KANSAS
OFFICE OF SECRETARY OF STATE
TOPEKA

PAUL R. SHANAHAN
SECRETARY OF STATE

September 11, 1961

Richard Mullins, Attorney
Beacon Bldg.
Wichita 2, Kansas

Dear Sir:

The proof of publication of the Certificate of Dissolution of STANDARD PRODUCTS, INC., has been filed with this office under the above date.

Therefore, in accordance with the statutes, the effective date of dissolution is September 11, 1961, and our records have been marked accordingly.

Very truly yours,



PAUL R. SHANAHAN
SECRETARY OF STATE

PRS:jmj

LAW OFFICES OF
ARN, MULLINS, UNRUH & KUHN
BEACON BUILDING
WICHITA 2, KANSAS
AMHERST 7-5267

EDWARD F. ARN
RICHARD F. MULLINS
MILD M. UNRUH
H. R. KUHN
C. WARNER EISENBISE
BERNICE BURKET

September 5, 1961

Office of Secretary of State
State Capitol Building
Topeka, Kansas

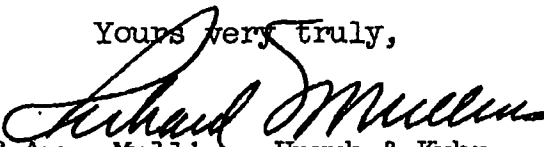
Re: Certificate of Dissolution,
Standard Products, Inc.

Gentlemen:

Enclosed please find proof of publication of Certificate of Dissolution issued by your office in the matter of Standard Products, Inc.

We will appreciate having an acknowledgement of the receipt of this proof of publication.

Yours very truly,


of Arn, Mullins, Unruh & Kuhn

RFM:g
enc.

AFFIDAVIT OF PUBLICATION



STATE OF KANSAS,
SEDGWICK COUNTY, ss.

Hubert L. Greenbank of lawful age, being duly sworn upon oath, states that he is the Editor of THE VALLEY CENTER INDEX; That said newspaper has been published at least weekly fifty (50) times a year and has been so published for at least one year prior to the first publication of the attached notice; That said newspaper was entered as second class mail matter at the post office of its publication; That said newspaper has a general paid circulation on a daily or weekly or monthly or yearly basis in Sedgwick County, Kansas, and is not a trade, religious or fraternal publication and has been printed and published in Sedgwick County, Kansas. The attached was published on the following dates in a regular issue of said newspaper:

1st publication was on the 31 day of August, 19 61
2nd publication was on the _____ day of _____, 19____
3rd publication was on the _____ day of _____, 19____
4th publication was on the _____ day of _____, 19____
5th publication was on the _____ day of _____, 19____
6th publication was on the _____ day of _____, 19____

Publication fee _____ \$ 2.21

Affidavit, Notary's fees _____ \$ _____

Additional Copies _____ @ _____ \$ _____

Total Publication Fee _____ \$ 2.21

★ Hubert L. Greenbank ★

Witness my hand this 31 day of August, 19 61

Subscribed and sworn to before me this 31 day of August, 19 61

A. Jane Greenbank
(Notary Public)

My commission expires November 19th 1963

S-51 (Published in The Valley Center Index Aug. 21, 1961)
STATE OF KANSAS
OFFICE OF THE
SECRETARY OF STATE
THIS IS TO CERTIFY, That Standard Products, Inc., whose Registered Office is Wichita, Sedgwick County, Kansas, filed its Resolution of Dissolution, as provided by law, in this office the 21st day of August, A.D. 1961.
GIVEN UNDER MY HAND AND SEAL this 21st day of August, A.D. 1961.
PAUL R. SHANAHAN,
(SEAL) Secretary of State

FILED
SEP - 7 1961
PAUL R. SHANAHAN
SECY. OF STATE

STATE OF KANSAS
OFFICE OF SECRETARY OF STATE
TOPEKA

May 14, 1949

Richard F. Mullins
827 Beacon Building
Wichita, Kansas

Dear Sir:

We are herewith enclosing our certificate attached to your copy of the Articles of Incorporation of STANDARD PRODUCTS, INC., same being filed in this office as of May 14, 1949.

Yours very truly,

Secretary of State.

ARD/lj
Enc.

RICHARD F. MULLINS
ATTORNEY AT LAW
827 BEACON BUILDING
WICHITA, KANSAS

TELEPHONE 2-7469

May 12, 1949

Secretary of State
State House
Topeka, Kansas

Re: Standard Products, Inc.

Dear Sir:

Enclosed please find original and copy of Articles of Incorporation of Standard Products, Inc., which I desire to have filed and the certified copy returned to me.

My check in the amount of \$127.50 is also enclosed to cover capitalization fee, application fee and recording fee.

Trusting this matter will receive your prompt attention, I am

Yours very truly,

Richard F. Mullins
Richard F. Mullins

RFM:g
encs.

ARTICLES OF INCORPORATION

Of

STANDARD PRODUCTS, INC.

WE, the undersigned, incorporators, hereby associate ourselves together to form and establish a corporation FOR profit under the Laws of the State of Kansas.

FIRST: The Name of the Corporation is STANDARD PRODUCTS, INC.

SECOND: The location of its Registered Office in this State is:

650 East Gilbert
Wichita, Sedgwick County,
Kansas.

THIRD: The Name and Address of its Resident Agent in this State is:

Richard F. Mullins
827 Beacon Building
Wichita 2, Sedgwick
County, Kansas.

FOURTH: This corporation is organized FOR profit and the nature of its business is:

The carrying on and conducting of a business in the distribution of aviation and industrial parts, equipment and supplies;

For the servicing, rebuilding and repairing of aircraft and industrial instruments, accessories and components;

For the conducting of a business in the construction, assembling, manufacturing, building and servicing of aviation and industrial test equipment;

For the buying, selling and distributing at wholesale and retail of various aviation and industrial instruments, accessories, parts and supplies;

To manufacture, sell and distribute any and all merchandise and wares;

To hold, purchase, acquire, sell, convey, lease, mortgage, and dispose of property, real or personal, tangible or intangible, including its rights, privileges and franchises; to have power to acquire, purchase, hold, lease, convey, mortgage, and pledge real and personal property; power to borrow money and issue, sell, or pledge bonds, promissory notes, bills of exchange, debentures and other obligations and evidences of indebtedness, secured or unsecured, and to purchase, acquire, subscribe for, guarantee, hold and dispose of the shares, bonds, and other evidences of indebtedness or contracts of any other corporation, domestic or foreign;

To establish and maintain branch locations and places of business within and without the State as may be necessary for the carrying out of the provisions herein contained;

To appoint such officers and agents as the business of the corporation shall require and to allow them suitable compensation; to do all acts, requisite and proper, to qualify under the laws of any State, to domicile the corporation in and to do business in any other State or territory of the United States; and to do all acts necessary, convenient or expedient to accomplish the purposes of this corporation in so far as provided and permitted by the Laws of the State of Kansas.

FIFTH: The total amount of capital of this corporation is One Hundred Thousand Dollars (\$100,000.00), and the total number of shares into which it is divided is as follows:

1,000 shares of Common Stock of a par value of \$100.00 each;

Said Common Stock to have the exclusive voting power and to have all of the rights of Common Stock provided by the Laws of the State of Kansas.

Stockholders owning stock in this corporation, after said stock has been issued and fully paid for, shall not be liable, personally or individually, for payment of corporation debts.

Whenever a compromise or arrangement is proposed between this corporation and its creditors, or any class of them, secured or unsecured, or between this corporation and its stockholders, or any class of them, any court, State or Federal, of competent jurisdiction within the State of Kansas may on the application in a summary way of this corporation, or of any creditor, secured or unsecured, or stockholders thereof, or on the application of Trustees in dissolution, or on the application of any receiver, or receivers, appointed for this corporation by any court, State or Federal, of competent jurisdiction, order a meeting of the creditors, or class of creditors, secured or unsecured, or of the stockholders, or class of stockholders, of this corporation, as the case may be, to be summoned in such manner as said court directs. If a majority in number representing three-fourths in

value of the creditors, or class of creditors, or of the stockholders, or class of stockholders, of this corporation, as the case may be, agree to any compromise or arrangement, and to any reorganization of this corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the Court to which the said application has been made, be binding upon all the creditors, or class of creditors, or on all the stockholders, or class of stockholders, of this corporation, as the case may be, and also on this corporation.

Statement of Grant of Authority, as may be desired to be given to the Board of Directors, if given:

The Board of Directors shall have all the usual and customary powers of a Board of Directors of a corporation as provided by the By-Laws of this Corporation.

SIXTH: The minimum amount of capital with which this Corporation will commence business is Twenty-Five Thousand Dollars (\$25,000.00) value in cash and assets.

SEVENTH: The Name and Place of Residence (P. O. Address) of each of the incorporators:

E. L. Crabb,	4601 East First Street, Wichita, Kansas.
J. F. Garufo,	241 South Belmont, Wichita, Kansas.
Charles N. Black,	511 Beacon Building, Wichita 2, Kansas.
G. E. Mills,	511 Beacon Building, Wichita 2, Kansas.
Richard F. Mullins,	827 Beacon Building, Wichita 2, Kansas.

EIGHTH: The Term for which this Corporation is to exist is FIFTY YEARS.

NINTH: The Number of Directors shall be not less than three (3) nor more than five (5), as determined by Resolution of

stockholders of the Corporation at annual meeting.

IN TESTIMONY WHEREOF, We have hereunto subscribed our
names this 13th day of May, 1949.

G. L. Cross

J. F. Garza

Charles F. Black

L. E. Mills

Richard Mullins

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS

Personally appeared before me, a Notary Public in and for Sedgwick County, Kansas, the above named E. L. CRABB, J. F. GARUFO, CHARLES N. BLACK, ED MILLS, and RICHARD F. MULLINS, who are personally known to me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 13th day of May, 1949.


Notary Public

My commission expires:

Aug. 18, 1951

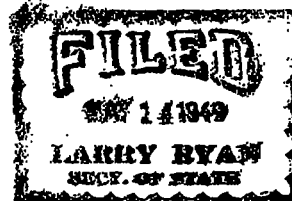
OFFICE OF SECRETARY OF STATE

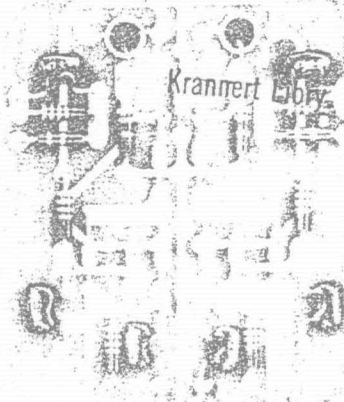
Received of STANDARD PRODUCTS, INC., and deposited in the State Treasury,
fees on these Articles of Incorporation, as follows:

May 14, 1949	Application Fee	\$25.00
May 14, 1949	Filing and Recording Fee.	\$ 2.50
May 14, 1949	Capitalization Fee.	\$100.00

By L. M. L. L. L.
Chief Clerk

Larry Ryan
Secretary of State.





ELECTRONIC COMMUNICATIONS, INC.



33RD ANNUAL REPORT 1960

ELECTRONIC COMMUNICATIONS, INC.
ST. PETERSBURG DIVISION
ST. PETERSBURG, FLORIDA

RESEARCH DIVISION
Timonium (Baltimore), Maryland

ADVANCED TECHNOLOGY CORPORATION
(ADTEC)
Santa Barbara, California

AIR ASSOCIATES, INC.
Teterboro, New Jersey

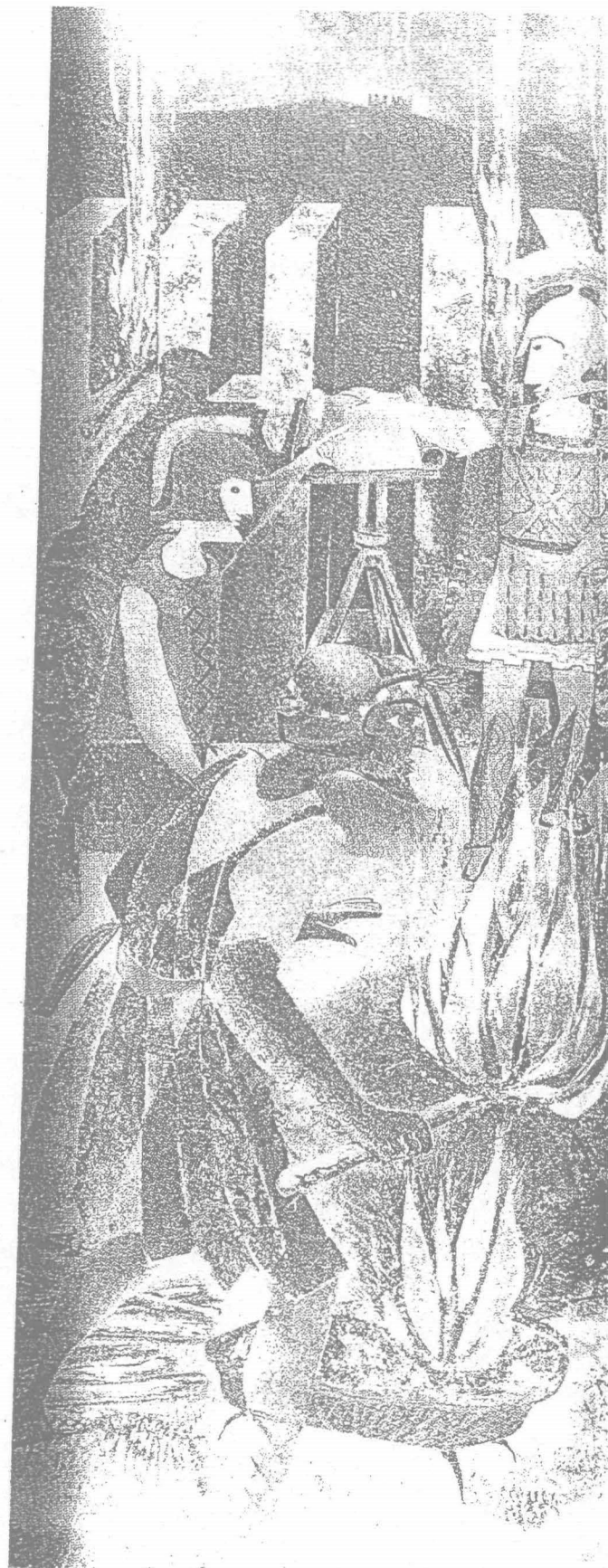
STANDARD PRODUCTS, INC.
Wichita, Kansas

FACSIMILE DIVISION
St. Petersburg, Florida

REGIONAL OFFICES

Boston, Mass.
Teterboro, N. J. (N.Y.C.)
Washington, D.C.
Dayton, Ohio
Dallas, Texas
No. Hollywood, California

System Development
Advanced Communications
Data Link
Countermeasures
Special Purpose Computers
Electromechanical Actuators
Facsimile Equipment
Microwave and Infrared R&D
Space Technology Research
Ground Weapon Systems Research
Aviation Supplies

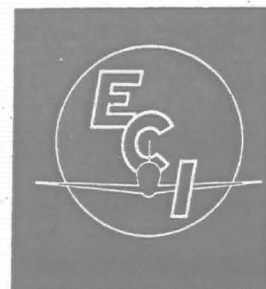




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ELECTRONIC COMMUNICATIONS, INC. AND SUBSIDIARIES



33RD ANNUAL REPORT **1960**

HIGHLIGHTS OF THE YEAR 1960

The year 1960 started for Electronic Communications, Inc. after a series of shifts in defense programs that were impossible to anticipate with certainty. Some of the precipitate reductions in weapons programs had serious effects upon ECI. The foreshortening of the Air Force's procurement of manned interceptors ahead of earlier plans for curtailment left ECI with a serious gap in manufacturing schedules. A great deal of engineering and bid proposal expense was wasted when the F-108 interceptor and the B-70 bomber projects were terminated; the B-70 has since been reinstated, and it should be possible to reactivate earlier negotiations for subcontract work.

Engineering and development expenditures leading to new business opportunities were at an all time high for the Company. Some of this effort resulted in the ALRI communications contract (described elsewhere in this report); this contract now constitutes a large part of the present backlog of business, although production deliveries are not scheduled until well into 1961.

A number of loss projects that had been a burden for several years were finally brought to the point

where they were completed or could be abandoned without unfavorable customer reactions, and were written off. The long series of price redetermination subcontracts for Air Force interceptor communication and data link systems, amounting to over \$40,000,000 of effort and several years of work, have not yet been settled, but faster progress is now being made and settlement should be completed early in 1961. There are substantial follow-on orders for both end-use equipment and spares, and these contracts are being written on a firm fixed-price basis.

The backlog of business on September 30, 1960 was \$11,023,000 compared with \$10,726,000 a year earlier. Much of this current business is both a product and a customer diversification from previous years' activity.

In all, operating results reflected the reduced manufacturing work load and the write-off of unprofitable products. But with the benefit of a substantial tax loss credit carry back, the Company's balance sheet after all adjustments is in strong condition, and ECI is now moving ahead into 1961 with a confidence and certainty of purpose that was not possible a year earlier.

A SPOT COMPARISON

	1960	1959	1958	1957	1956
Electronic sales	\$14,443,202	\$21,458,991	\$12,486,967	\$ 4,687,007	\$ 3,000,746
Aircraft supplies and other sales	9,687,359	11,312,839	11,362,364	15,061,172	13,537,805
Total sales	\$24,130,561	\$32,771,830	\$23,849,331	\$19,748,179	\$16,538,551
Manufacturing costs, selling and administrative expenses	24,986,993	30,773,377	23,335,672	18,864,465	16,043,533
Interest paid	251,906	295,406	389,949	252,242	169,876
Net income (loss)	(607,511)	855,139	424,353*	334,814	287,965*
Current assets	10,900,268	13,843,349	11,942,181	10,315,500	8,548,379
Current liabilities	6,920,812	8,999,061	9,329,775	7,743,889	5,950,460
Net current assets	3,979,456	4,844,288	2,612,406	2,571,611	2,597,919
Net worth	6,285,297	6,892,678	4,343,777	3,319,920	3,727,900
Number of preferred shares	42,248	44,290	58,816	60,891	61,691
Number of common shares	597,209	590,076	398,120	394,857	393,657
Per common share (after requirements of preferred stock):					
Net income (loss) and special items \$	(1.06)	\$ 1.40	\$.98	\$.76	\$.64
Net current assets	5.96	7.46	4.77	4.74	4.89
Net worth	9.82	10.93	9.12	6.63	7.76
Notes payable	5,719,768	2,773,620	6,407,826	5,706,413	4,371,734

*Includes special items amounting to \$317,891 in 1958 and \$79,262 in 1956.

TO THE STOCKHOLDERS:

IN THE FISCAL YEAR ended September 30, 1960, Electronic Communications, Inc. experienced a reduced manufacturing work load and certain expenses which detracted from our profit potential. These detractors were of two kinds: non-recurring write-offs relating to contracts completed, and expenses which may be considered as part of the cost of building for the future. There was a resultant net loss of \$607,511, or \$1.06 per share.

During the year, the Company completed delivery to the U. S. Coast Guard of two long-standing fixed-price contracts at a large loss, a part of which was absorbed as incurred in earlier years and the remainder in 1960. Efforts to negotiate with the Treasury Department and the Coast Guard are continuing for relief under these two orders, with increases to adjust for original contractual faults that led to large cost over-runs amounting in total to almost one million dollars. As a matter of sound accounting practice, none of this over-run appears upon the Company books as an asset, but your management has every intention of taking an appeal for additional compensation to the ultimate sources available to the Company.

In 1954 a new product diversification effort was the development of an aircraft fuel pump for jet fuels. This pump design gave excellent performance with much better operating characteristics, higher efficiency, and was very much lighter in weight than competing pumps. Several production contracts were obtained, principally for use in the F-101 aircraft. After development work was completed and production was started, it became apparent that the use of manned aircraft for military purposes would be curtailed much sooner than expected, and a surplus of fuel pump suppliers developed quickly. Under these conditions, even a superior new product does not insure a profit, and it was decided that the fuel pump business would be abandoned as soon as the then existing orders could be completed, and the customer would be able to obtain usable pumps from a second source. This was accomplished in 1960, and the last of the development expenses were written off.

The Facsimile business has improved greatly in prospects, while at the same time accounting for a very

substantial portion of the loss operations for 1960. Until a few months ago, ECI continued to distribute Electronic Messengers for sale and lease through local franchised dealers. Difficulties developed when customers required large communication network installations extending into the territories of not one but several Facsimile distributors. A contract was negotiated with Western Union to undertake nationwide leasing and servicing of ECI's Electronic Messenger Facsimile equipment, with ECI continuing to sell direct to those customers who prefer purchase to leasing, but with Western Union to supply customer service in the field. At this point it became necessary to terminate the contracts with our local distributors, and relieve them of their remaining inventories of Facsimile apparatus for which they had previously paid. The reversal of sales for the returned distributor stocks was a non-recurring adjustment necessary to achieve a satisfactory national Facsimile sales and service plan.

The most significant occurrence for your Company in the past year was a successful bid for the communications subcontract for the ALRI project, involving both ground-based and airborne voice and data link apparatus. Of the seven original bidders for the prime system contract, six quoted ECI equipment in their bids; one of the six was successful in obtaining the prime contract with an initial subcontract commitment for ECI of approximately \$9,500,000. There have since been changes in quantity requirements, and the total share of the program for ECI should eventually be more than double the original commitment. We are on schedule, have delivered the first two sets of apparatus built in engineering to production designs, and have released the manufacturing orders to the shop.

With the ALRI order, ECI is no longer almost completely dependent for manufacturing work load upon the interceptor communication and data link subcontracts that formerly constituted the bulk of our electronic manufacturing commitments, mentioned in the Highlights Section. This older business, now at a reduced level, was and continues to be a valued and important source of work for the Company; but the former almost complete dependence of ECI upon a single weapon systems prime contractor was not good for the

Company. This situation has now been corrected with a broadening of the ECI base.

Two other major projects, carried out initially with ECI funds, are now reaching the decision point with the customer. No contractual commitments have yet been made beyond test and trial projects, and it is never safe in this business to predict a successful outcome in advance. However, both projects are proceeding on schedule and have lived up to and exceeded all early expectations in current trials. Either project is potentially much larger in value than the ALRI subcontract. Security restrictions limit descriptions to: one, a new concept of ground communications, applicable to missile projects; two, a most significant extension of capability for communication in airborne voice and data link.

Another milestone was the completion in February of our new manufacturing building in St. Petersburg. This is a completely new and modern production facility 150,000 square feet in area fully equipped to produce the things ECI makes. It is adjacent to the 50,000 square foot engineering and headquarters building on 26 acres of land, with adequate room and planned provisions for future expansion needs. The new plant has proved to be much more economical in operation than were the previously leased manufacturing buildings. Reduced insurance and maintenance costs are more than enough to amortize the new building costs, without giving effect to the lowered cost of supervision and better productive effort in an improved work environment.

The Research Division at Timonium, Maryland, continues to be a very satisfactory operation. It has been self-supporting after its initial eighteen months of infancy and is engaged principally in CPFF contract work in the fields of electronic countermeasures, radar — steerable array antennas etc., communication theory techniques, certain infrared projects, and assistance to the St. Petersburg Division Engineering Department in special projects.

Early in the year, Mr. J. B. Williams joined ECI as Vice President — Engineering, and shortly before this report went to press was given additional responsibility as General Manager for the St. Petersburg Division. He

has had nineteen years of responsible experience in all phases of communications, radar, and weapon system management.

Our new subsidiary, Advanced Technology Corporation, at Santa Barbara, California, is making improved progress. It was moved during the year to larger quarters and was provided with a model shop and initial laboratory equipment. Several classified contracts have been obtained, principally from the Army and the Navy's Pacific Missile Range at Point Mugu. Dr. F. E. Lowance joined ADTEC in May as its new President. Active negotiations are being pressed to secure the additional work needed to permit further expansion and to make ADTEC completely self supporting.

With respect to Air Associates, Inc., the pattern of the aircraft supply business has reestablished itself, following the government's sharp reduction in the manned aircraft operations that formerly were a significant source of business. The aircraft supply business once again primarily serves the airlines, business aircraft, and the private plane market. This change has required a rapid readjustment in the Air Associates marketing and distribution organization. In large measure these adjustments have been completed, and the normal annual growth in the civilian aircraft supply business has begun to replace the lost military manned aircraft business sources. Air Associates is expected to return to its normal profit position during the new fiscal year.

The following pages in this report, pages 1 through 28, are the contents of a new ECI Capabilities Brochure now being distributed to customers and potential customers. It describes in detail some of the recent significant apparatus design and manufacturing achievements of your Company, and as such should be of interest and informative to you as a stockholder.

F. W. Godsey, Jr.

F. W. Godsey, Jr.
President

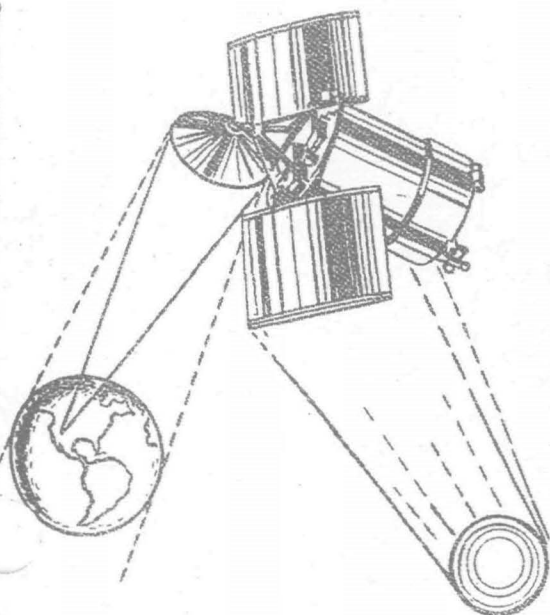
TECHNICAL EXCELLENCE AND CAPABILITY

Technical excellence and capability are the building blocks for achievement in space age defense electronics, and the foundation for operations at ECI. Rigorous analysis and planning, exacting research, painstaking development, superior design, quality manufacture, and exhaustive inspection and testing are essential to expanding recognition, acceptance and growth in a highly specialized field characterized by absolute requirements for precision and reliability.

Successful operations today require major advances in the state of the art, more than ever, to achieve those things which have not been done before. This means ever greater emphasis on research and development, with an increased ratio of technical to non-technical personnel. In any specific area of technical development, leadership may begin in the mind of perhaps an individual engineer or scientist, and first takes recognizable form on a drafting table or laboratory bench.

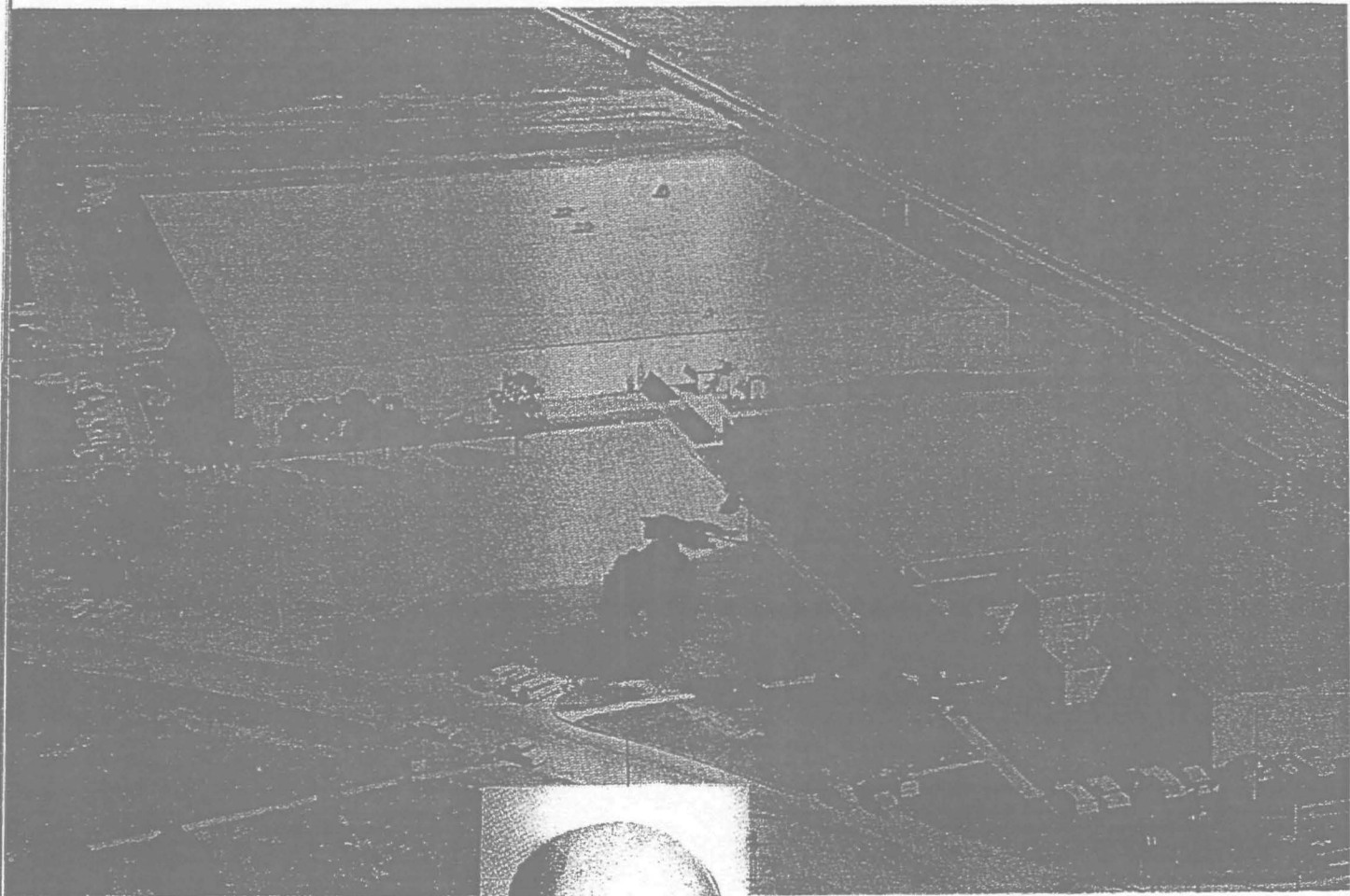
A look at future requirements often indicates a departure from what were the accomplishments of yesterday and today. Requirements for space communication, for example, are unique. Reliability, design, size, power, range, and maintainability all achieve even greater recognition and emphasis. Here ECI, with its long and enviable reputation in military airborne and surface communications, aims not only to keep pace, but to lead. With precision the requirement, and perfection the goal, we seek to continually assure that ECI — Electronic Communications, Inc. — remains synonymous with EXCELLENCE, CAPABILITY, and IMAGINATION.

This look at ECI will acquaint you with its several phases of operations, from drawing board to application, from Maryland to Florida, and from New Jersey to California. We are confident that in this presentation you will observe all the necessary ingredients of successful achievement in each phase of the Company's operations.



F. W. GODSEY, JR.
President

FOUNDATION OF SUCCESS



J. B. WILLIAMS

Vice President and General Manager

St. Petersburg Division

TECHNICAL EXCELLENCE AND CAPABILITY begin with knowledgeable people, without whom the finest facilities are destined to become mere monuments. Corporate and division managements, scientists, engineers, technicians, production planning, manufacturing, quality control, and administrative personnel, all must function together as an able, alert and imaginative team with a compelling interest in their Company and its work.

This is the case at ECI, where the best creative and skilled talents and the most modern and completely equipped facilities meet to assure a highly effective industrial organization.

Scientists & Engineers. In ECI enterprises, *one out of every three employees is in engineering.* Of the engineers themselves, one in every 4 has a masters degree, and one in every 9 has his Ph.D., while a great many others pursue advanced studies at nearby colleges and universities. Total experience is nearly 2000 man years . . . experience not alone in terms of years spent, but relative to rich, varied and productive achievement. One scientist may have helped to develop cyclotrons at Oak Ridge, while an engineer was engaged in the design and development of AM and FM airborne communications systems. Both join at ECI and ADTEC in integrated programs of advanced communications, data link, electronic countermeasures, microwave and infrared research and development, special purpose computers, and basic research for missiles, space vehicle, and hypervelocity test vehicle research.

St. Petersburg Division. *Engineering.* To assure designs and services which thoroughly fulfill current and future requirements, and which can be sold at a profit, ECI headquarters engineering is organized along functional project lines. Principally, there is the Vice President of Engineering, an Advanced Development Group, the Chief Engineer and his functional sections, and Engineering Administration.

The Advanced Development Group participates in the planning and establishment of medium and long range development objectives, conducts assigned programs, monitors the advanced development activity of other sections, analyzes and reflects Department of Defense development plans and trends, and spearheads liaison between St. Petersburg and engineers and scientists at Research Division and Advanced Technology Corporation.

Functional sections reporting to the Chief Engineer include Systems Engineering, Transmitter, Receiver, Special Devices, Reliability, Engineering Services, and a completely equipped Model Shop.

St. Petersburg Division engineering occupies a new,

well lighted and completely air conditioned facility some 50,000 sq. ft. in area. With the Research Division and ADTEC, this is increased to a total of 78,000 sq. ft. The Engineering Laboratory is exceptionally well provided with equipment, including such standard items as signal generators, frequency measuring and noise and field intensity devices; it is outstanding in availability and adequacy of equipment needed in our business.

ECI boasts the most complete Environmental Test Laboratory in the entire Southeastern United States for small and medium size apparatus. Test facilities include temperature (-100°F to 1000°F), altitude (to 150,000 ft.), vibration and shock (5 to 2,000 cycles/sec), radial acceleration to 10 lbs. to 70 G and 750 force lbs., sand, dust, fungus, humidity, salt-sea atmosphere, a complete roster of all standard environments.

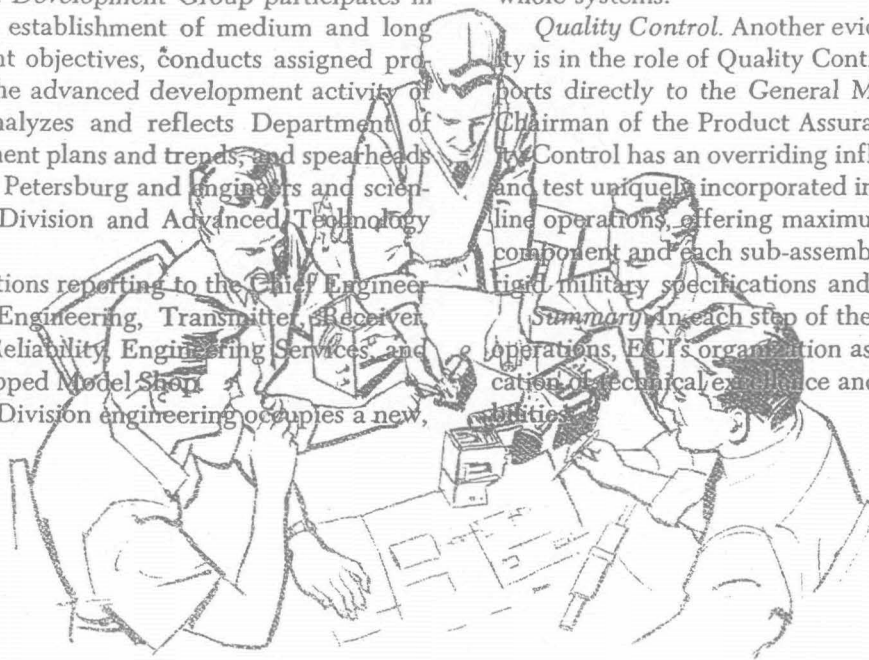
Precision Manufacture. Designed and built specifically for the production of electronic equipment, ECI's new air conditioned 150,000 sq. ft. manufacturing building reflects application of the best in manufacturing concepts of production control and traffic planning. The ability to produce and assemble everything from components to whole systems is assured by the presence of complete and fully integrated machine shop, sheet metal shop, electro-plating, welding, heat treating, carpentry, and paint shop facilities.

Within the scope of the Vice President of Operations, the Manufacturing Department functions also incorporate the all important Manufacturing Engineering, Cost Estimating, Production, and Inspection and Test Sections. Each step in organization follows the philosophy of efficient operations and quality production that motivates ECI.

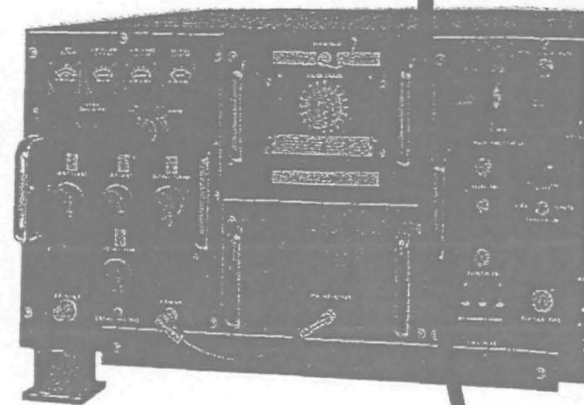
Inspection and Test. One clear indication of this emphasis on quality is the importance of inspection and testing at each step of the manufacturing operation, from receipt of basic materials through final acceptance and shipment of assembled units, sub-systems, or whole systems.

Quality Control. Another evidence of stress on quality is in the role of Quality Control, whose manager reports directly to the General Manager, and serves as Chairman of the Product Assurance Committee. Quality Control has an overriding influence, with inspection and test uniquely incorporated in each step of assembly line operations, offering maximum assurance that each component and each sub-assembly will meet or surpass rigid military specifications and requirements.

Summary. In each step of these complex electronics operations, ECI's organization assures maximum application of technical excellence and manufacturing capabilities.

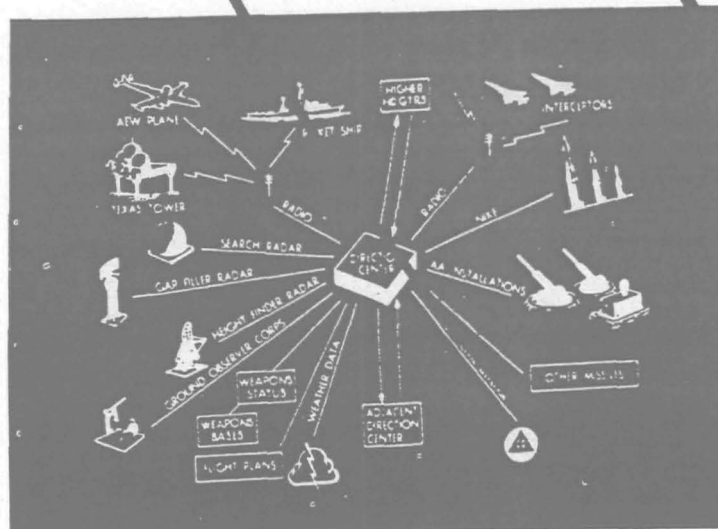


One-Kilowatt Transmitter

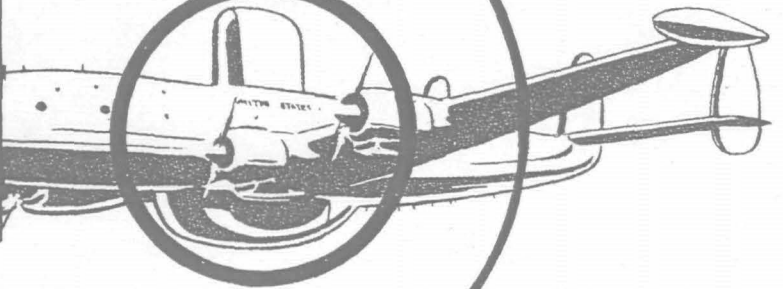
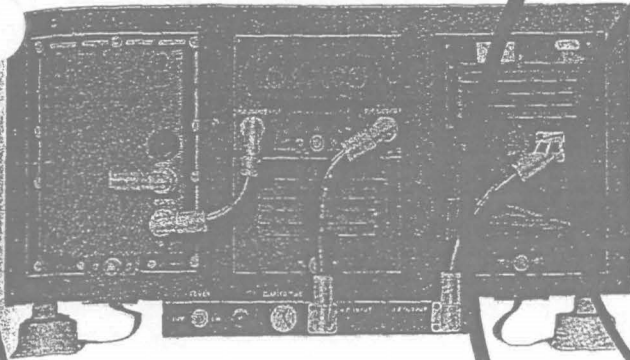


PROGRAMS AND PROGRESS

On this and the following pages are examples of ECI equipments produced for various programs during recent years. It is apparatus such as this that has provided ECI with a reputation for a high order of excellence in technical and manufacturing capabilities among military and industrial customers alike.



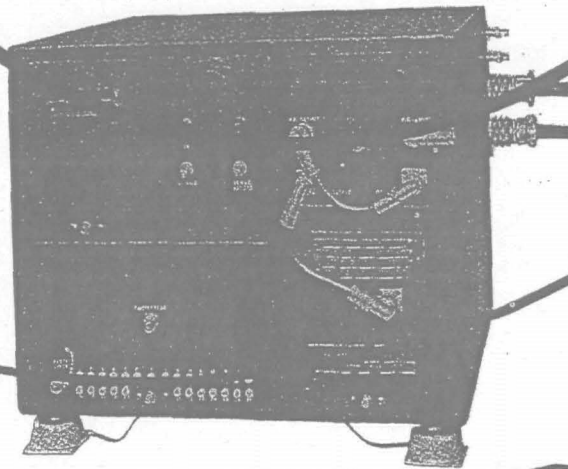
Voice Transceiver



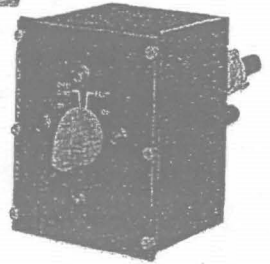
ALRI

(Increased Warning Time from Airborne Attack)

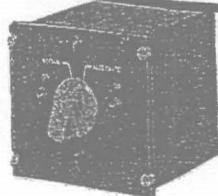
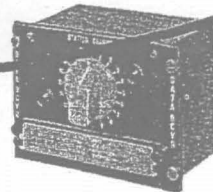
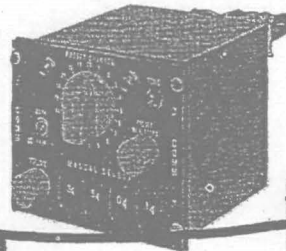
The USAF Airborne Long Range Input (ALRI) Program provides an airborne seaward extension of the SAGE early warning defense network. ECI responsibilities in ALRI include both airborne and ground communications, and ground support equipment. ECI provides the communications link from the output of an airborne data processor to the output of the ground receiving site, all supplemental voice communications for the aircraft, and a high power one-kilowatt airborne interceptor control TDDL (Time Division Data Link) relay. Included are a complete ground receiver group and a 28-foot steerable antenna; a decoder group and antenna positioning system; an airborne one-kilowatt data link with a steerable antenna for air-to-ground communications; two 50-watt voice communication sets; and a data receiver group coupled to a one kilowatt transmitter to perform the relay function between interceptors and the early warning aircraft.



TDDL (Time Division Data Link) Receiver



Controls





Complete
ALRI Ground Station

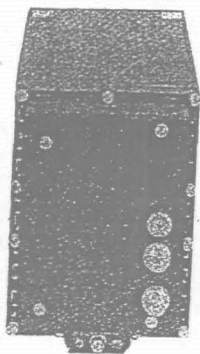
MA-
VOIC
COMMUNICATION
AND DATA LINK

ECI designed, developed and manufactured the highly sophisticated voice and data link communications equipment which forms essential parts of the automatic electronic guidance and fire control systems, incorporated in such current Air Force "Century Series" interceptors as the F-101 "Voodoo," F-102 "Delta Dart," and F-106 "Delta Dagger." With this system, these aircraft can be flown automatically from shortly after takeoff, through climb and cruise, to an attack position.

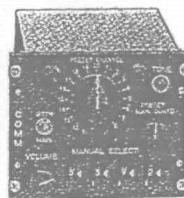
Essentially the ECI equipment consists of the (AN)-ARC-85 airborne communications system, and the AN-ARR-50 data link group. The voice communications system is an ultra-high frequency (UHF) command set consisting of a voice transmitter and receiver, a guard receiver to monitor other station frequencies, a power supply, and a control selector. The AN-ARR-50 data group consists of a receiver assembly, RF tuner, data link converter, and GCI (ground control intercept) selector. The data group accepts information, other than normal voice communications, transmitted to it by a ground UHF transmitter. The data group receiver then converts this information to a form usable by the aircraft's guidance and weapons equipment concerned with the military mission. This would normally in-



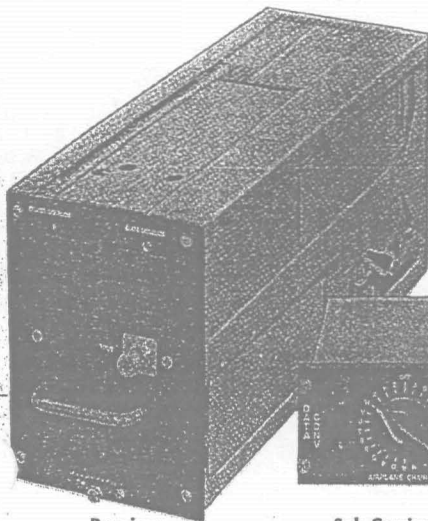
Power Supply



Transmitter



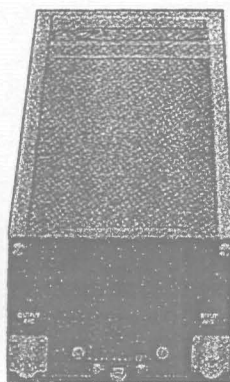
Communications Control Selector



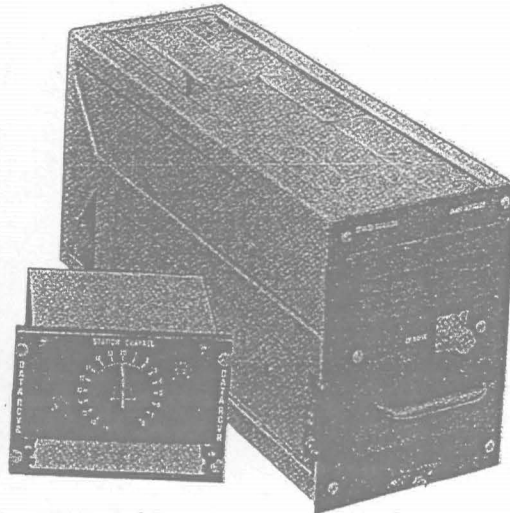
Receiver



Sub-Carrier Selector



RF Tuner

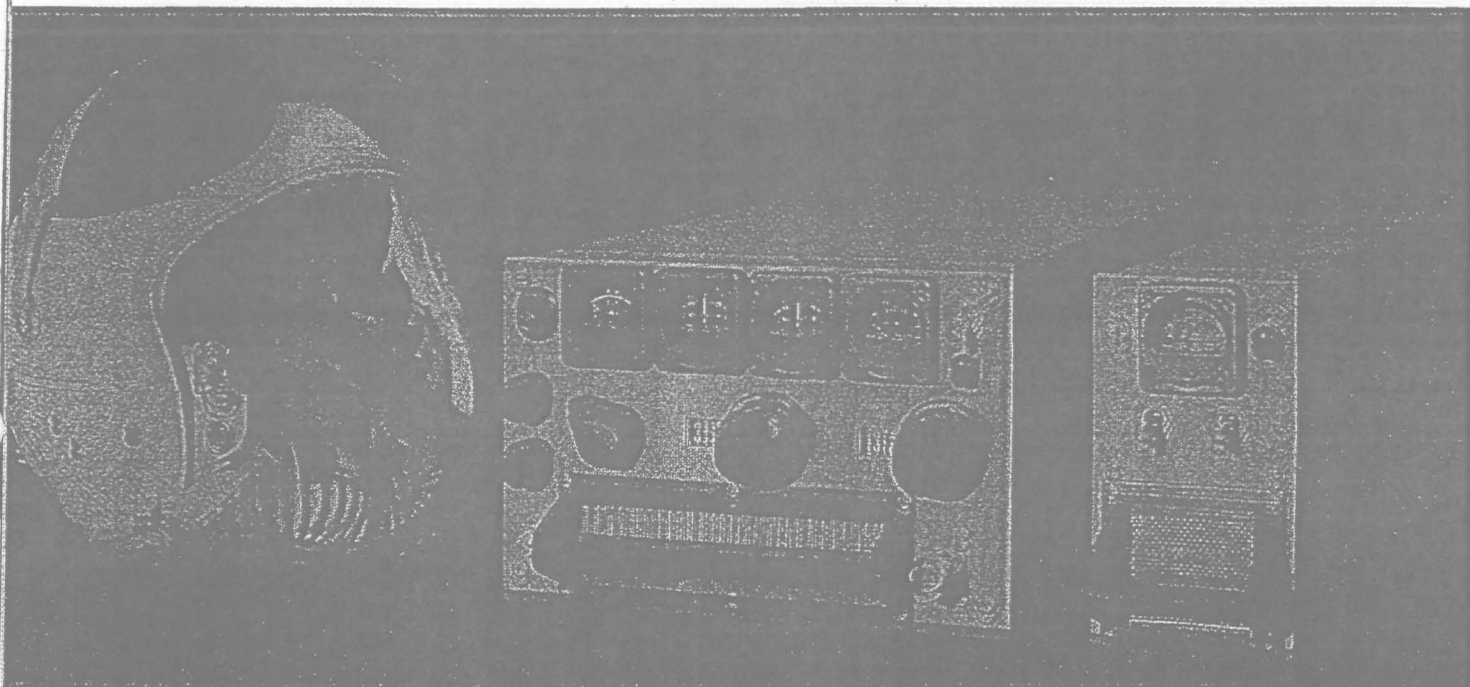
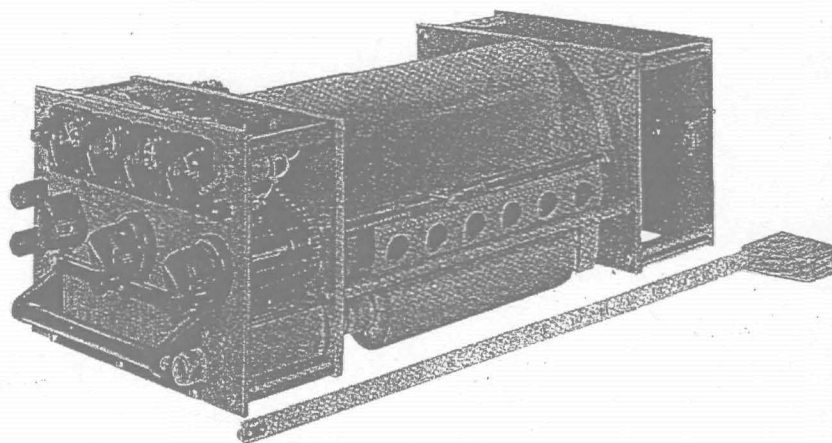


GCI Control Box

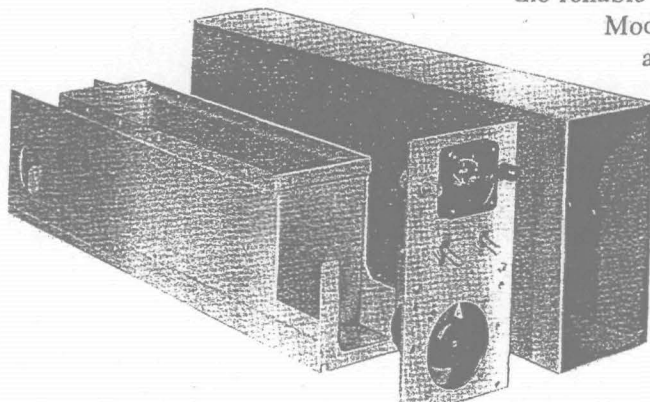
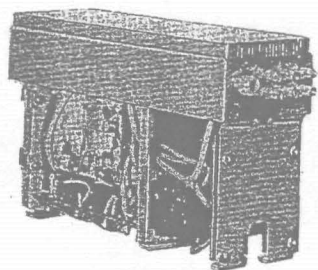
Receiver

clude determining altitude, target location, and weapons fire control. Both voice communications and data link systems tune automatically on demand to preselected channels of the 1750 channels in the UHF band, more communication channels than are available in many small town telephone exchanges.





MODEL 42A SINGLE STAGE 1 KILOWATT AMPLIFIER & POWER SUPPLY



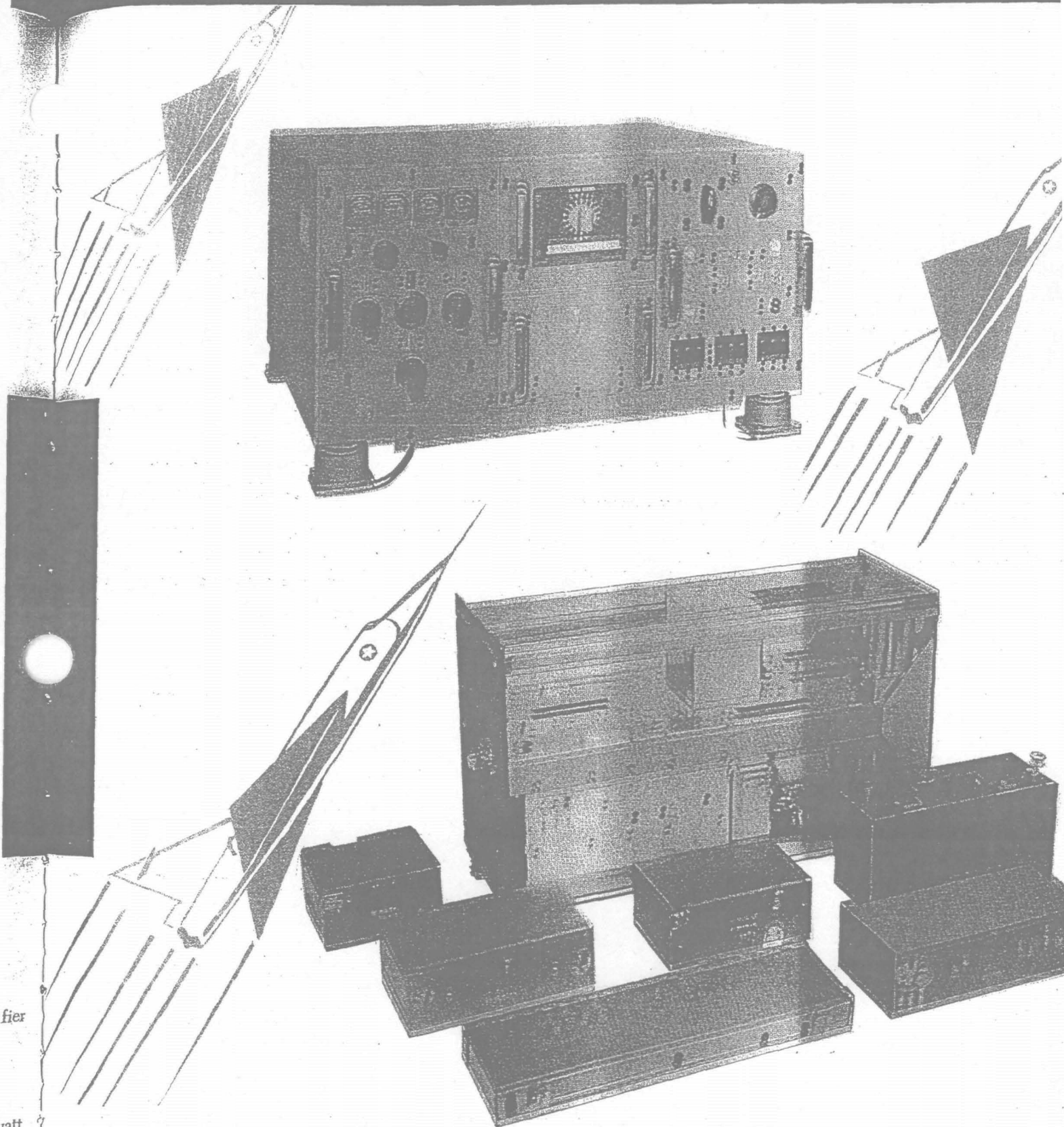
Due to a very low driving power requirement, ECI's Model 42 Amplifier and Power Supply may be used directly after most existing low power airborne transmitters operating in the 225 to 400 megacycle band, providing an extremely simple means for greatly increasing the reliable range of aircraft communications circuits.

Model 42A is the *first* ultra-high gain, single stage one-kilowatt amplifier to be created for airborne use and serves as a fine example of ECI excellence in design and craftsmanship.

Exceptionally small and lightweight:

Amplifier — 6.5" x 10.125" x 16", 38 lbs.

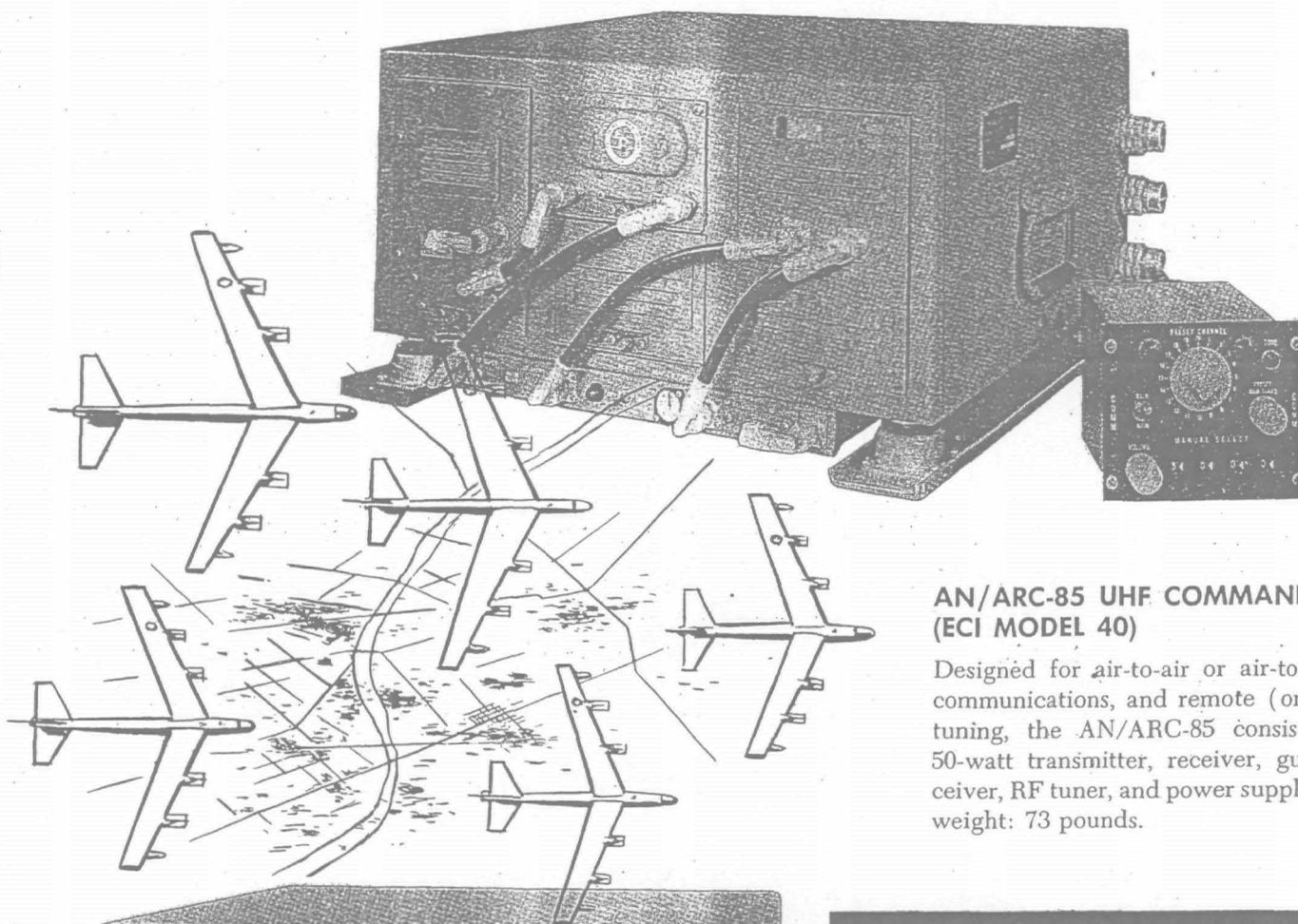
Power Supply — 6.5" x 4.87" x 16", 32 lbs.



AN/ART-40 (ECI MODEL 28) FULLY INTEGRATED 1 KILOWATT AIRBORNE TRANSMITTER

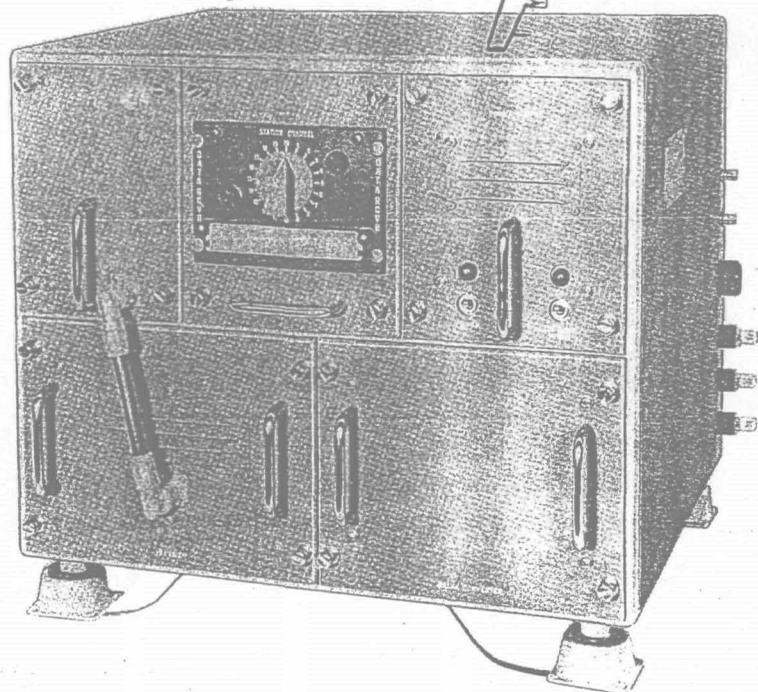
Designed for the ultimate in reliability as an UHF (ultra-high frequency) voice and command communications system for airborne and other applications where high power, small size and light weight are requirements. Only 15" high, 30" wide, and 27" deep. Weight less than 200 pounds including power supply.

R-1022/AR AIRBORNE RECEIVER 1750 channel, ultra-high frequency (UHF) receiver.



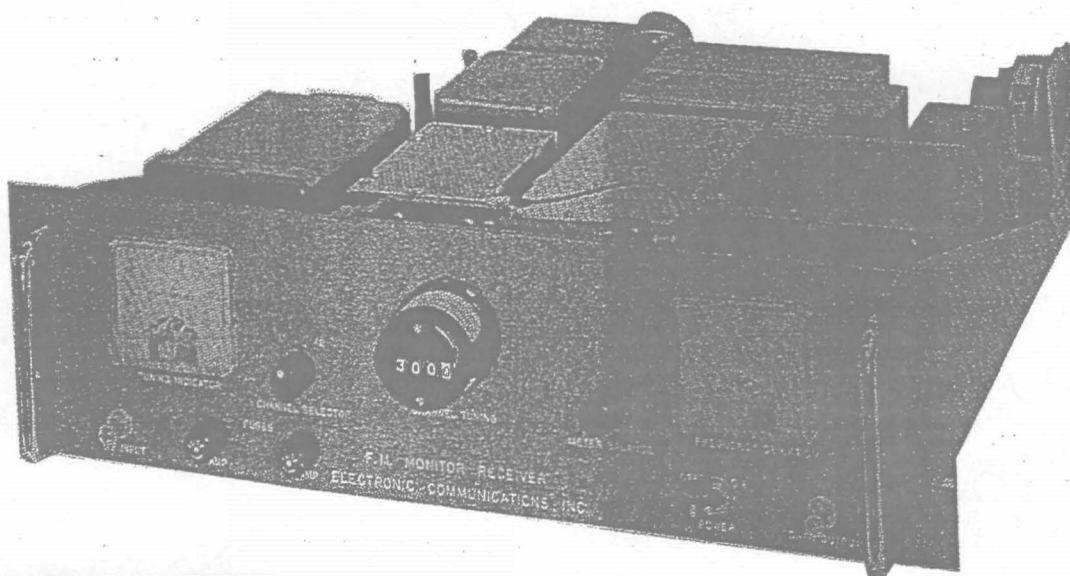
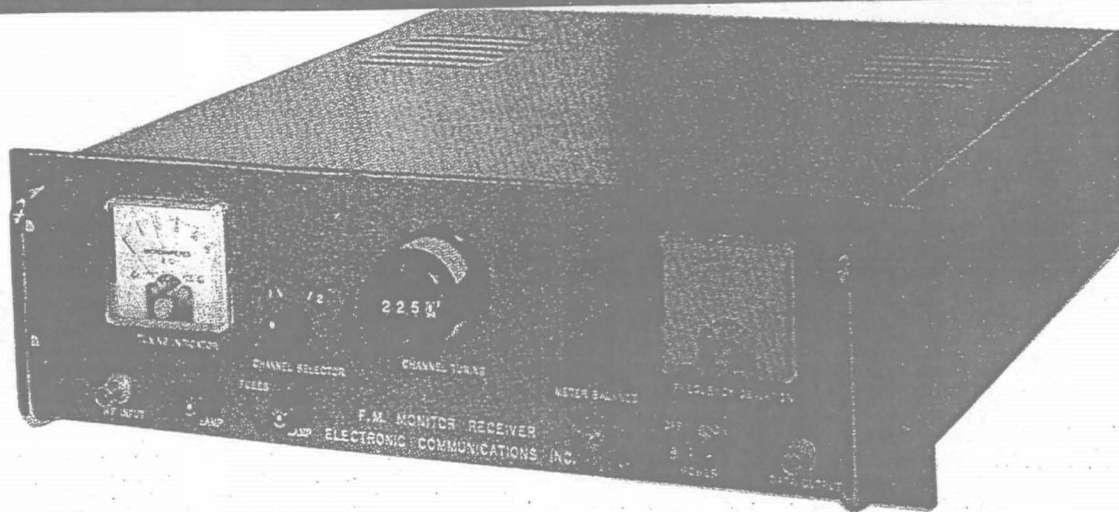
AN/ARC-85 UHF COMMAND SET (ECI MODEL 40)

Designed for air-to-air or air-to-ground communications, and remote (or servo) tuning, the AN/ARC-85 consists of a 50-watt transmitter, receiver, guard receiver, RF tuner, and power supply. Total weight: 73 pounds.



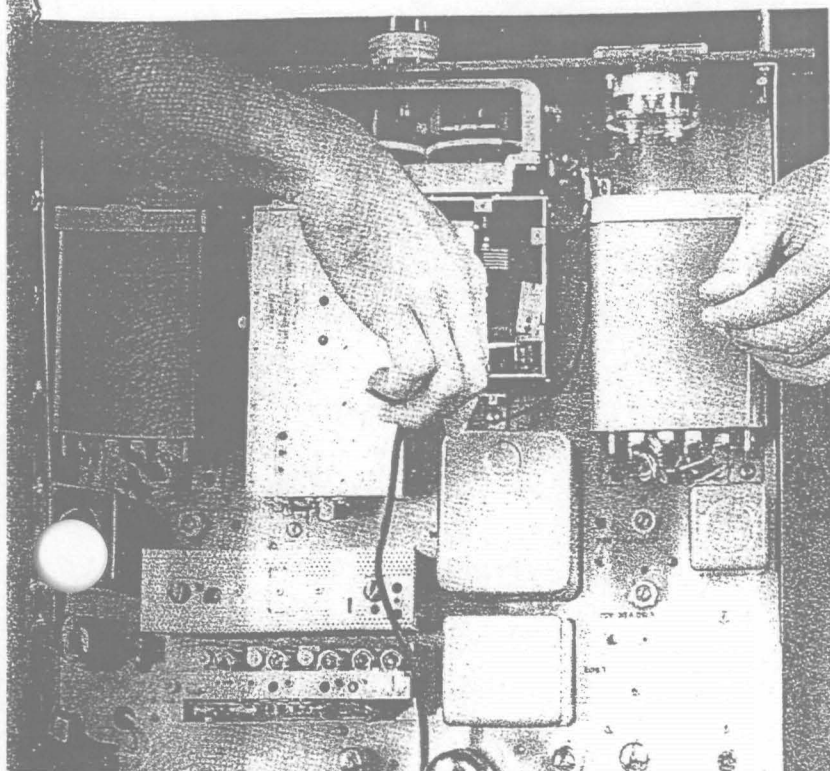
AN/ARR-67 (ECI MODEL 34) UHF DATA RECEIVER GROUP

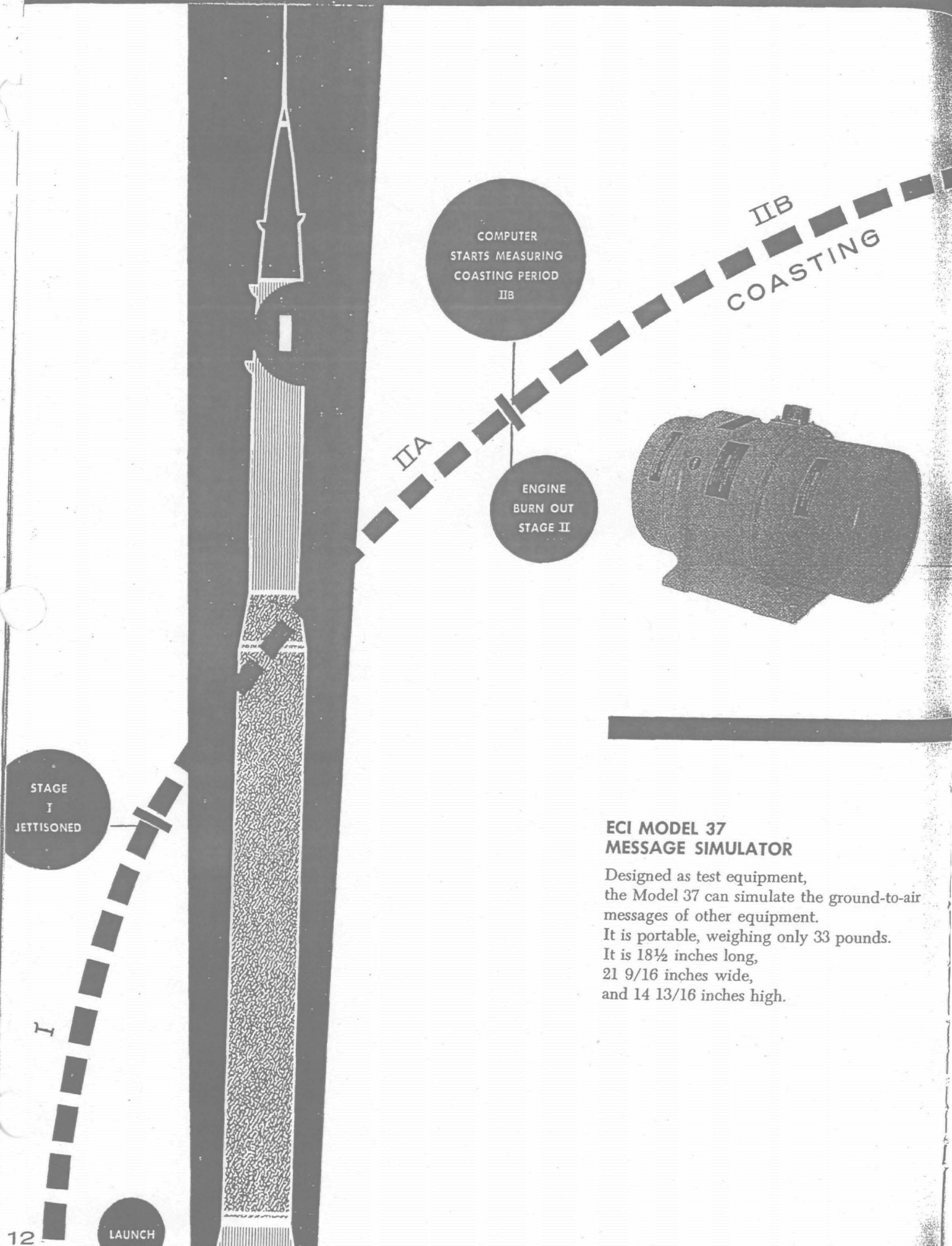
AN/ARR-67, or ECI Model 34 is a completely self contained data receiver group, designed to provide continuous reception on a pre-assigned frequency in the 225 to 399.9 megacycle range. It weighs 85 pounds and is 19 inches long, 17 inches deep, and 15½ inches high.



ECI MODEL 36 FM MONITOR RECEIVER

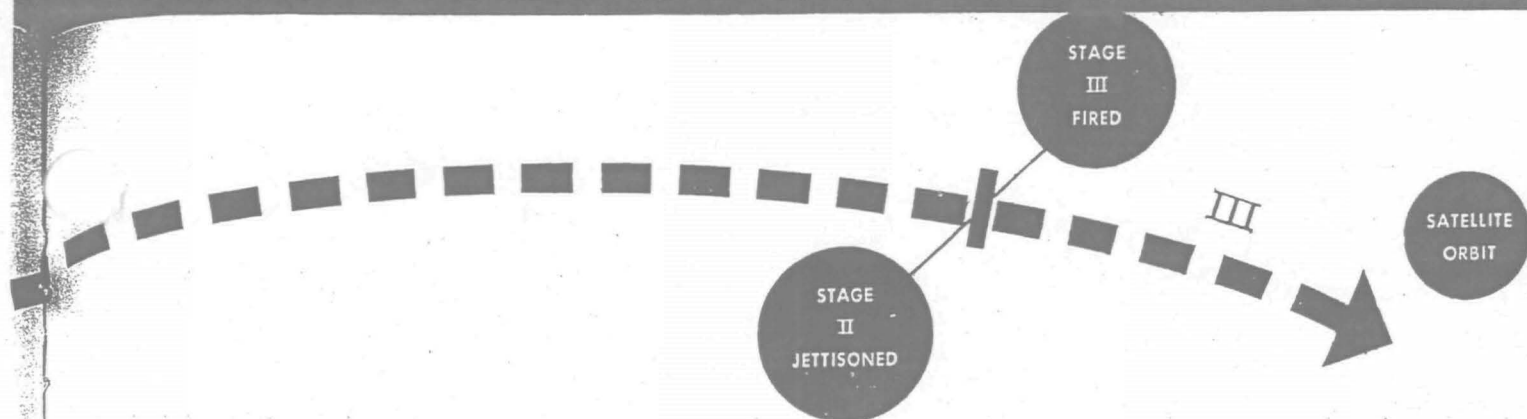
ECI Model 36 is a self-contained, integrated unit containing both a power supply and basic receiver, and is designed to operate from 225 through 399.9 megacycles. Capable of receiving FM, voice, frequency shift keying messages, telemetry, and digital data transmissions, Model 36 is intended for a number of users, including various military agencies and the FAA. Size: 5.25" x 19" x 17". Weight: 49 pounds.



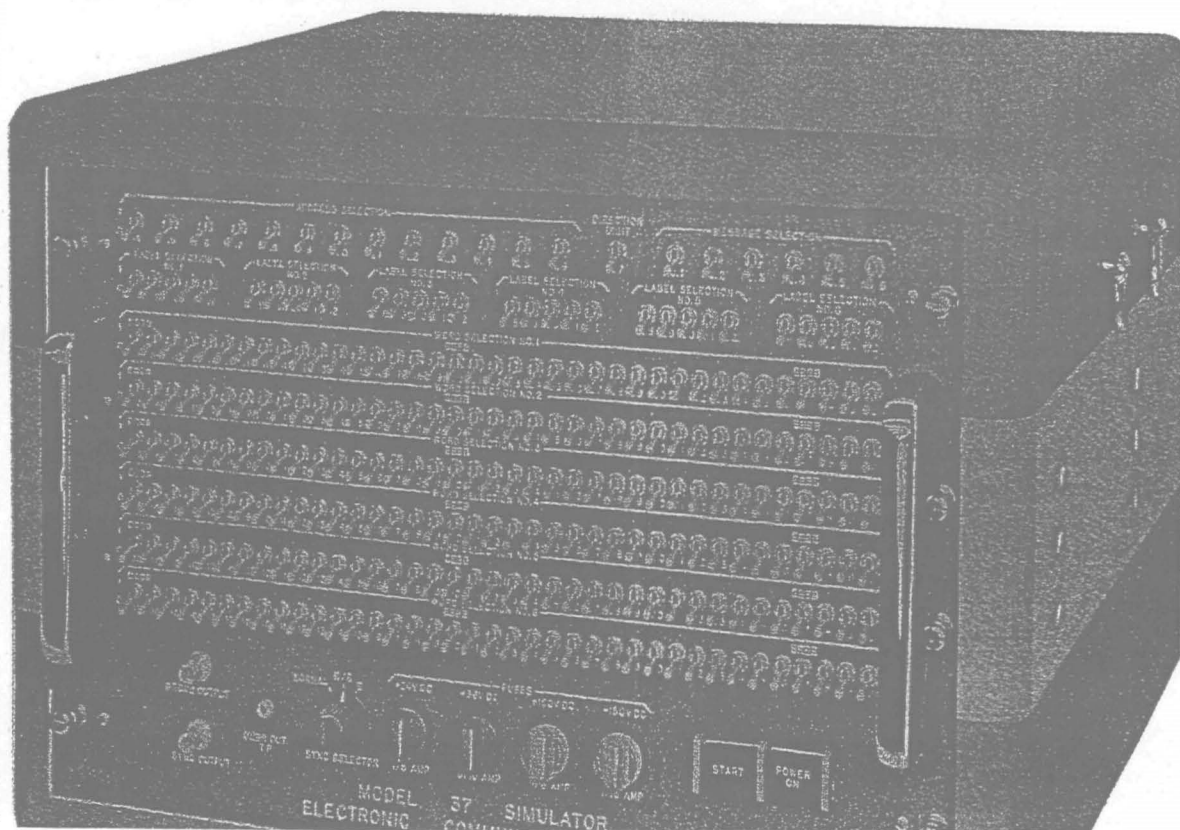
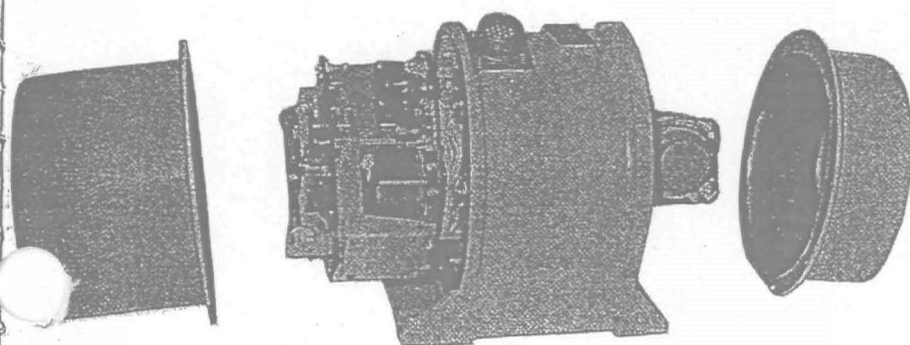


ECI MODEL 37 MESSAGE SIMULATOR

Designed as test equipment, the Model 37 can simulate the ground-to-air messages of other equipment. It is portable, weighing only 33 pounds. It is 18½ inches long, 21 9/16 inches wide, and 14 13/16 inches high.



COASTING TIME COMPUTER. Designed to provide in-flight information on velocity, the Coasting Time Computer determines at what point a missile's final stages will be fired to provide the maximum horizontal velocity necessary to place a satellite in orbit. It serves as an excellent example of ECI capabilities in connection with special purpose acceleration measuring and computing devices.

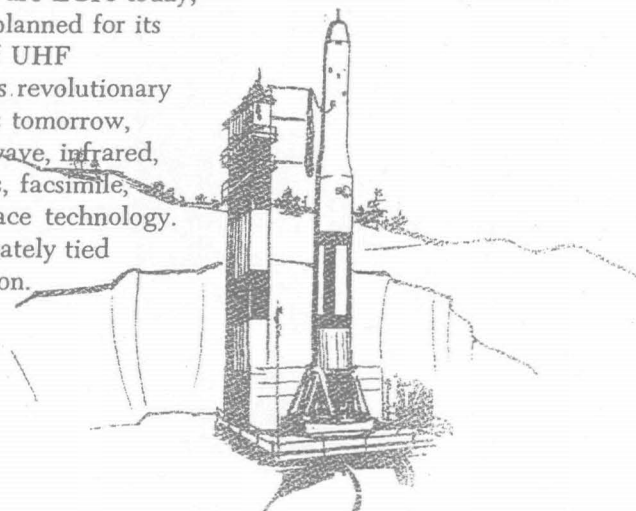
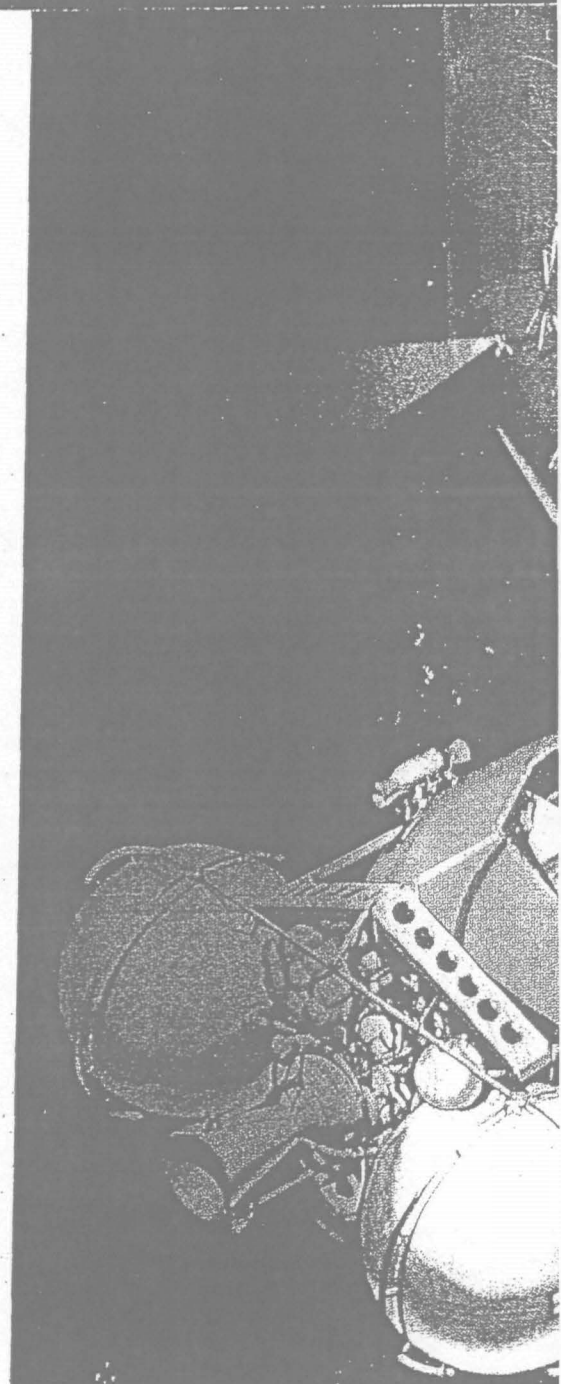


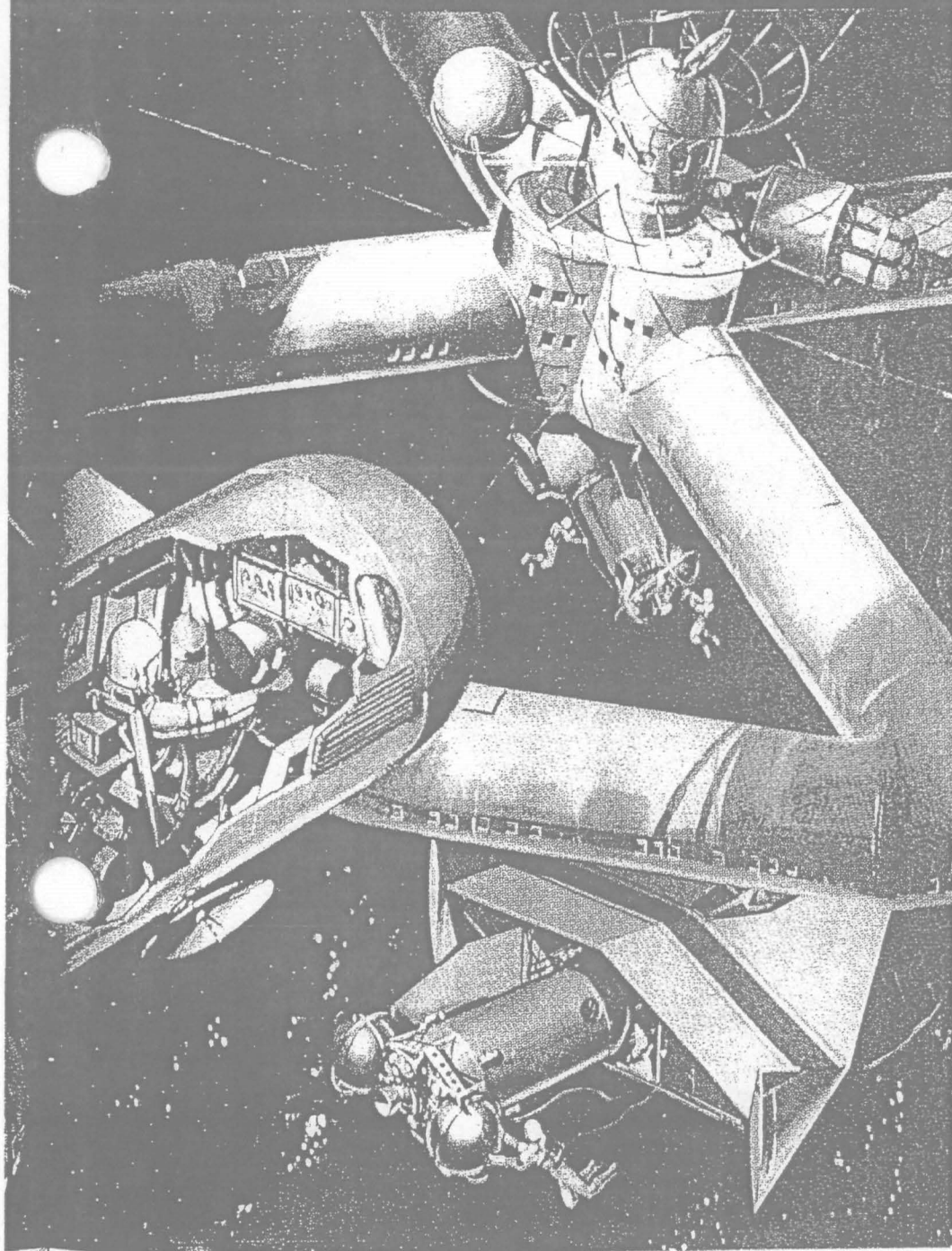
PLANNING FOR PROGRESS

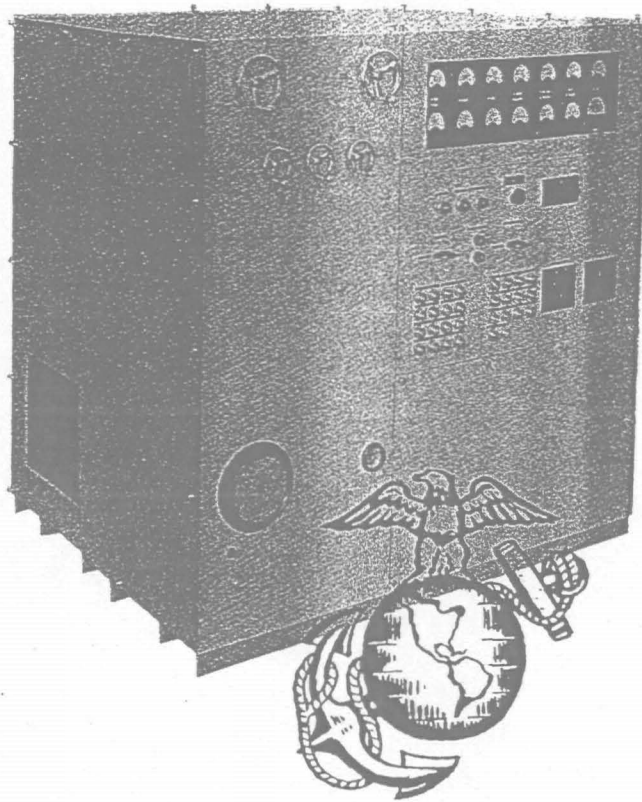
The increasing technical complexity of the age is a continuing challenge to our society. Twenty-five to thirty years ago, stories of outer space were fare for children, and the best military aircraft could range only a few hundred miles at a top speed of 250 miles per hour. Today, we all read voluminous, detailed and serious accounts of man's imminent departure for the moon and beyond; and inter-continental ballistic missiles speed 6,000 miles in a few minutes to small, pre-determined targets. (And fully 60% of the design, development and manufacturing effort in any such missile system is in electronics.)

Progress in such a world is inevitable. The most cursory glance at the record shows that in virtually every field of human interest, someone, some group, somewhere will dare the unknown and do the job. The horizons of technological progress are virtually unlimited.

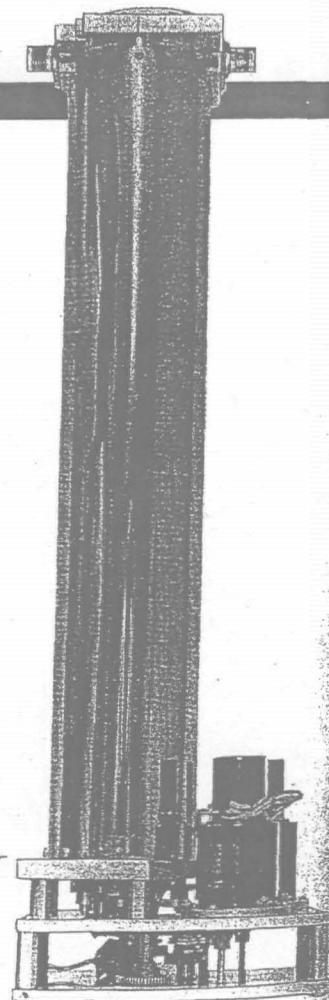
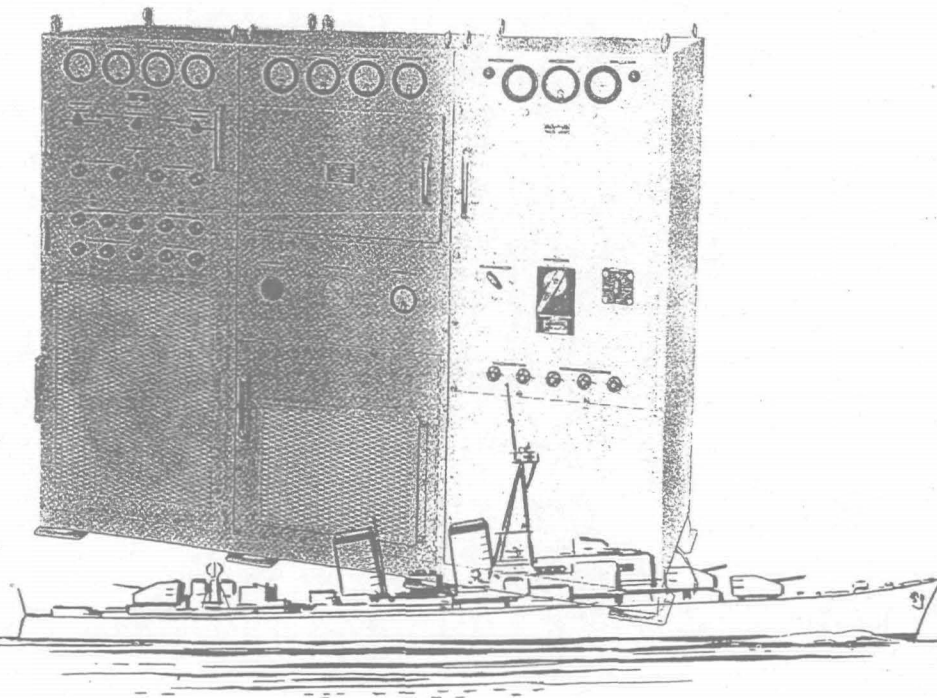
But to *lead* in such a world requires planning — plans to cope with new requirements and new environments, plans to assure ever increasing capability and excellence, and plans for growth. Thus, the technical excellence, capabilities, and reputation for quality which are ECI's today, are merely indicative of what is planned for its future. Preeminent in the field of UHF communications today, ECI plans revolutionary new advances and breakthroughs tomorrow, in such important areas as microwave, infrared, radar, electronic countermeasures, facsimile, tactical weapon systems, and space technology. Clearly the future of ECI is intimately tied to that of science and of the Nation.

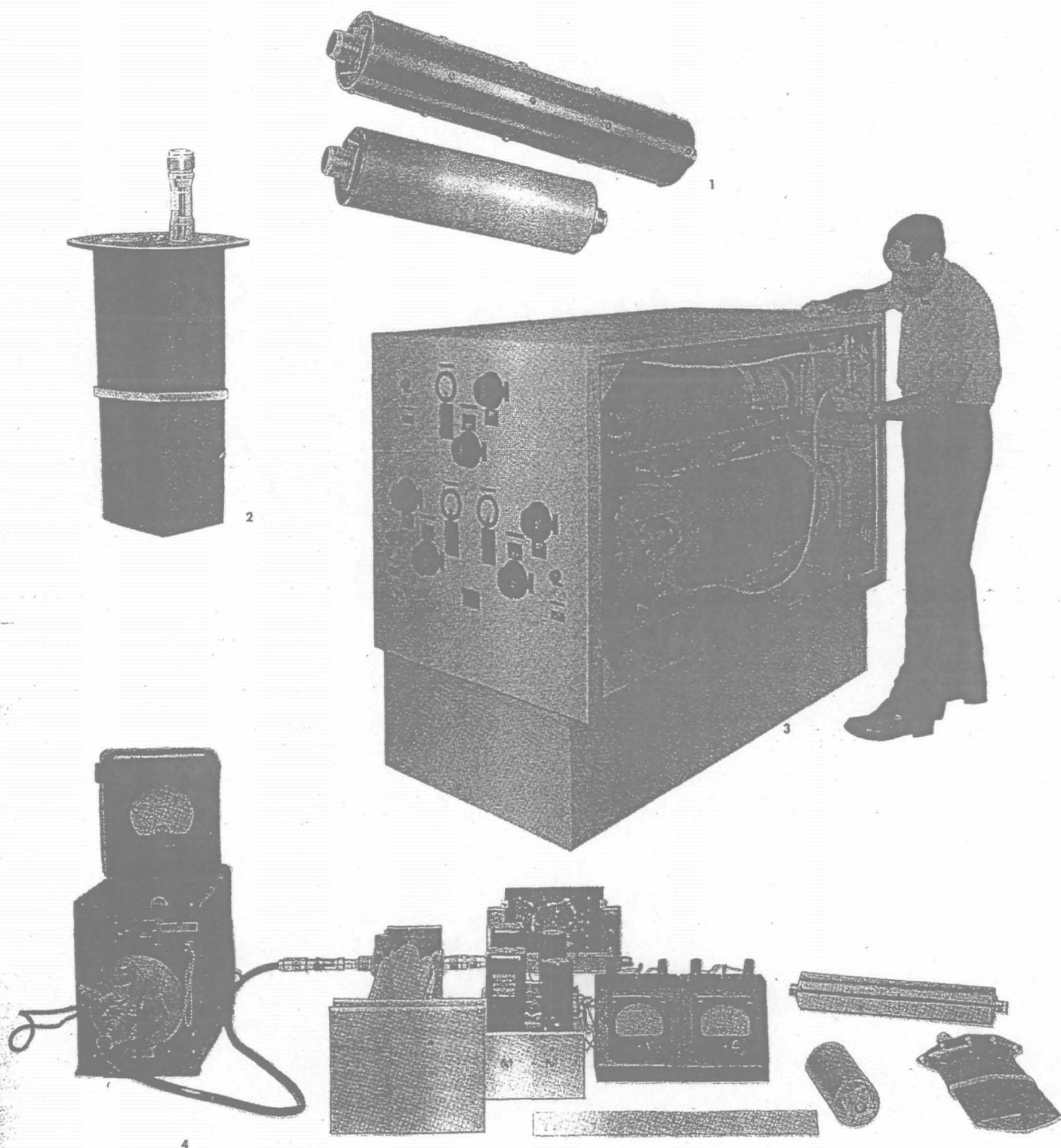




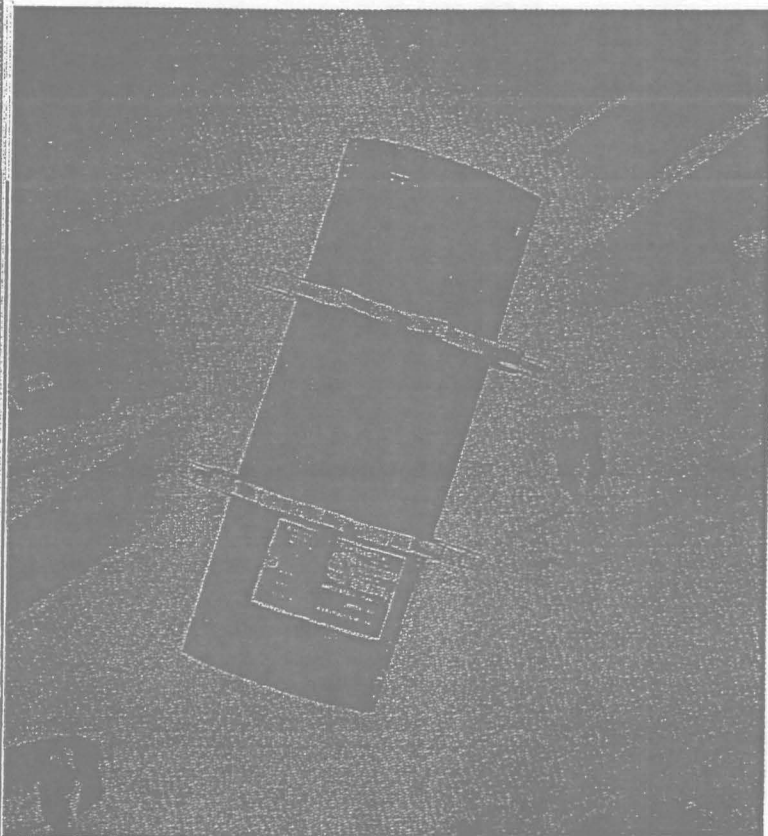


Manufactured for the Marine Corps, the SRT-23A is a one-kilowatt high level modulated UHF transmitter designed to operate in the 225-400 megacycle band. Below, left, is ECI's AM-1976/SRT shipboard and shore based one-kilowatt carrier level amplifier, designed and produced for the Bureau of Ships. Coupled with this amplifier, the power of a 100-watt transmitter such as ECI's SRT-18 is automatically increased to 1000 watts. Lower right, a view of ECI's airborne UHF Automatic Impedance Matching Device, cover off.



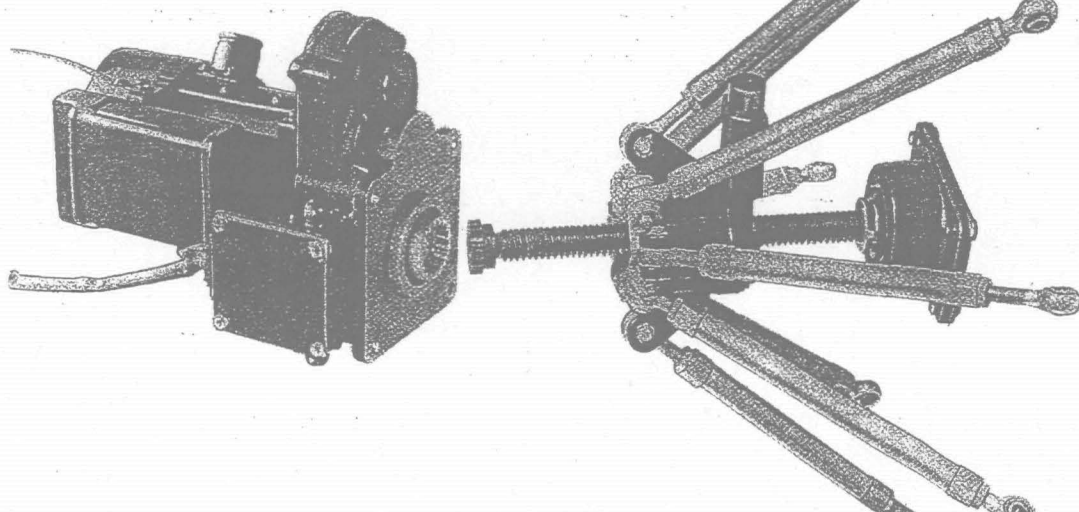
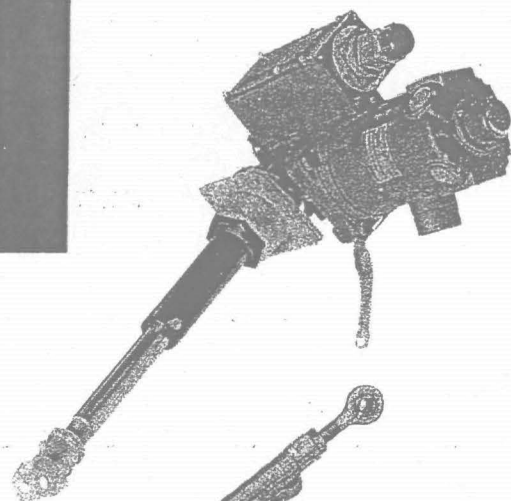


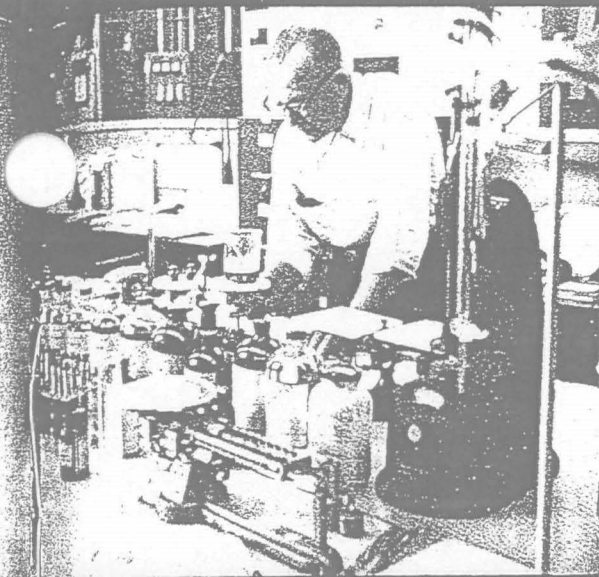
1 UHF 1 KW power level low pass filters. **2** AN/AR-1010 airborne antenna for radiation of power levels of one kilowatt or more in the 225-400 mcs. range. **3** ECI Multi-Coupler designed to couple three one-kilowatt transmitters into a single antenna. "Fixed plant" equipment for standard communication bands. **4** Test arrangement of an experimental UHF Impedance Matching System.



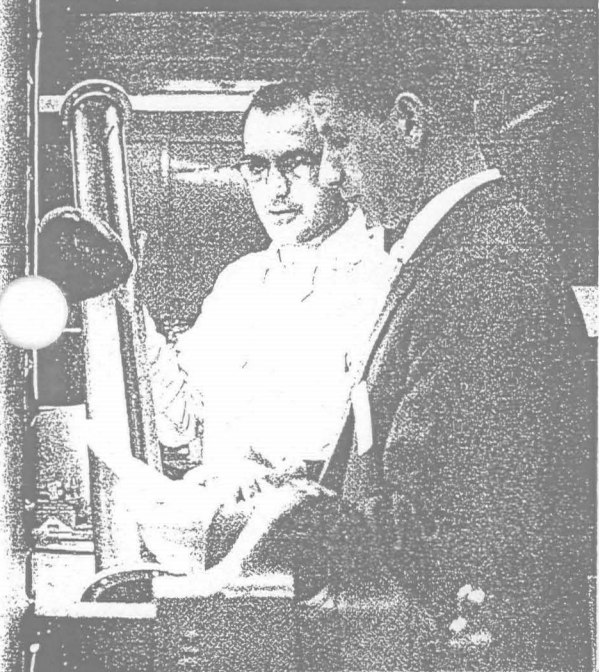
Both ECI and Air Associates have a long and enviable reputation for the design, development and manufacture of a large variety of high quality electro-mechanical equipment, including linear and rotary actuators, screw-jacks, and both AC and DC motors.

Representative items illustrated here include the M7550-M2 Rotary Actuator (Ammunition Booster) on the left. Below is the M4710-M2 Cowl Flap Actuator employed on a large number of transport aircraft, including the presidential airplane, the *Columbine*. Lower left shows a highly specialized M2905 Spider Assembly, combining rotary actuator and screwjack principles.



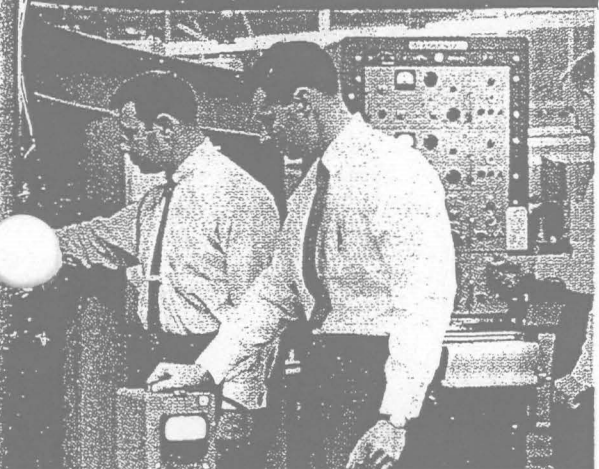


Materials & Processes Laboratory

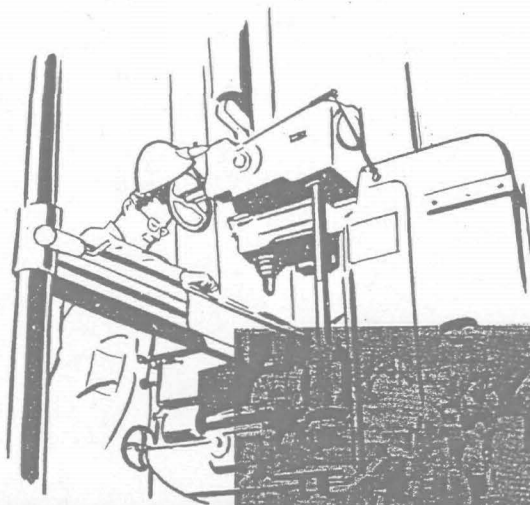


Inspecting a special purpose tuning cavity
in ECI's Model Shop.

Universal Vibration Holding Device, a unique feature
of ECI's Environmental Test Laboratory.

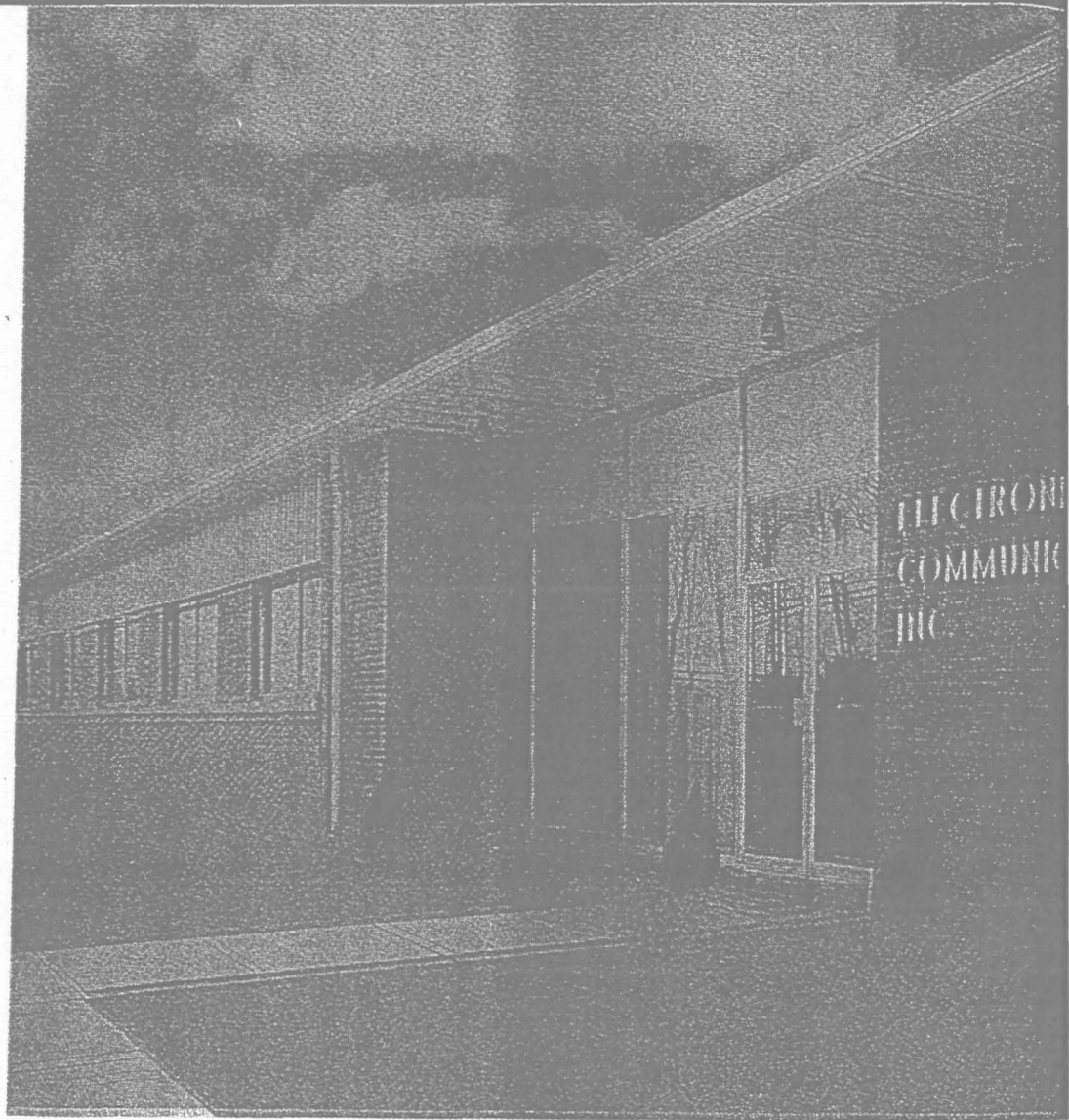


A cavity for an airborne
one-kilowatt amplifier undergoes
a rugged vibration test.



One of several electronics assembly lines,
where best possible use is made of the skilled
hands, exactness, and patience
of women employees.

In ECI's modern facilities are to be found all of the shops and special features which assure quality of product, including the Materials and Processes Laboratory, Assembly Line, Model Shop, and Environmental Test Laboratory illustrated above and to the left.



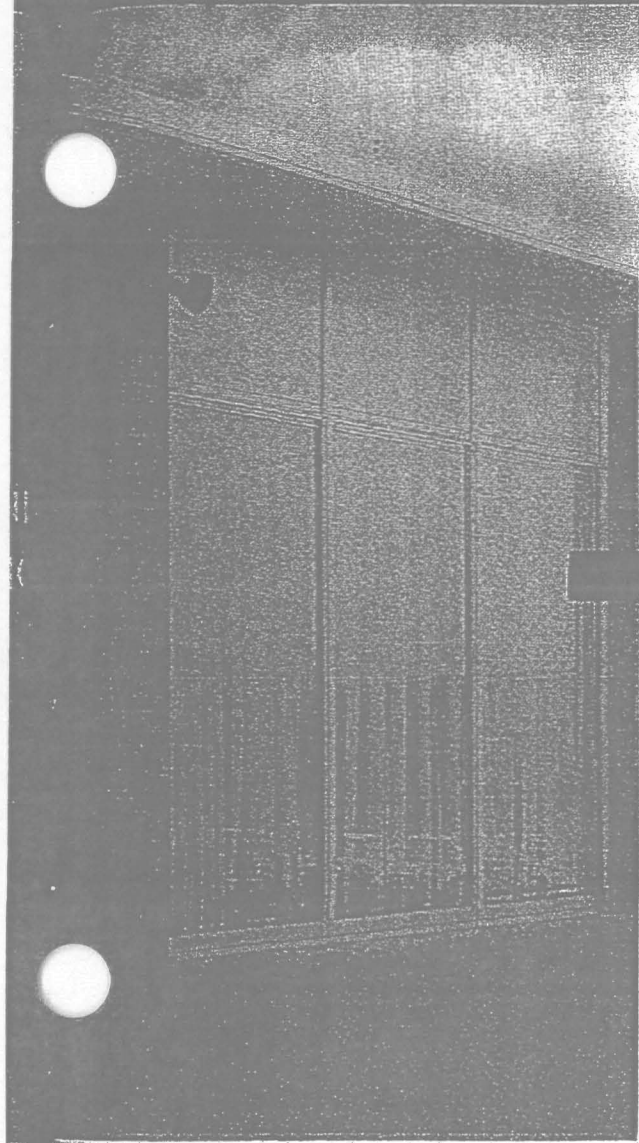
FOOTHOLD IN THE FUTURE

The rapid development of electronics and its role in the future are a measure of the ability and creative imagination of research scientists and engineers. What the industry will be doing two, five and even ten years from now depends on what these individuals achieve today and tomorrow.

Emphasis on research at ECI resulted in the creation of the Research Division in 1956. Located at Timonium, Md., in the north Baltimore suburban area, it possesses the optimum parameters for successful research — dedicated mathematicians, physicists and engineers of outstanding ability, facilities and working conditions conducive

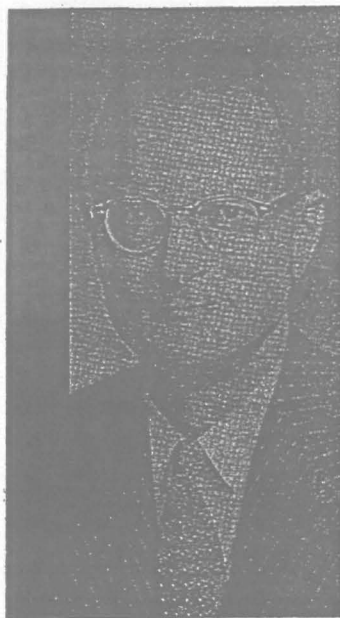
to the best of creative thought, freedom and encouragement to explore for new ideas, a degree of isolation from production activities, ready access to university and other research centers, and close contact with the Department of Defense and specific military agencies and activities.

The Research Division occupies a modern, well lighted and thoughtfully arranged one story brick structure which provides 20,000 square feet of laboratory, shop and office facilities. Among its many features are an ample drafting area, library, photographic workroom, and a complete shop operation for the machining of special compo-



RESEARCH DIVISION

DR. D. D. KING
Vice President, Research



nents and the construction of experimental models. A clear roof and surrounding seven acres of level land with an unobstructed horizon permit a variety of radar and radio range experiments. A specific example is the antenna pattern range, which greatly enhances antenna research. Similarly, a land mine facility in a separate building—a duplicate of that employed by the Army Engineers—plays an important role in land mine detection studies and developments.

Total experience of the technical staff is 274 man-years. One out of every two has a master's degree, and one in every five a doctorate.

